Reg. No. KL/TV(N)/12

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Government of Kerala
1983



KERALA GAZETTE

SUPPLEMENTS

PUBLISHED BY AUTHORITY

Vol XXVIII] Trivandrum, Tuesday, 18th January 1983 / 28th Pousha 1904 (Saka) [No. 3

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GENERAL ADMINISTRATION (PUBLIC RELATIONS C) DEPARTMENT

G.O. MS. No. 15/82/PR. *Dated, Trivandrum, 1st October* 1982.

Read.—Minutes of the meeting of the Press Accreditation Committee held on 4-8-1982

ORDER

The Government are pleased to issue the revised Rules for accreditation of correspondents representing newspapers and news agencies at District and State Headquarters as appended.

2. These Rules supersede all previous Rules for accreditation of Press Correspondents/Press Photographers at State and District Headquarters.

By order of the Governor,
T.K. RAJASEKHARAN,
Joint Secretary to Government.

RULES FOR ACCREDITATION OF CORRESPONDENTS REPRESENTING NEWSPAPERS AND NEWS AGENCIES AT THE DISTRICT AND STATE HEADQUARTERS

1. These rules apply to the accreditation to the Government of Kerala of Correspondents representing the Indian Press at State and District headquarters.

2. An application for accreditation in the prescribed form shall be submitted by the Managing Editor, Editor, Manging Director or Proprietor of newspapers or, in the case of news agency, by the General Manager to the

Director of Public Relations, Government of Kerala, Trivandrum-1. Full details about professional and educational, qualifications of the correspondent should be furnished with the application for accreditation. The Director of Public Relations shall refer the application to the State Press Accreditation Committee for advice.

* The bonafide full time Press Correspondents/reporters, full time journalists working as part-time correspondents will submit their application for accreditation direct to the Director of Public Relations. The application submitted by them will be verified by the Director of Public Relations in consultation with the managements concerned and the District Information Officer.

3. The Correspondent should fulfil the following conditions for accreditation:

* (a) He should have completed atleast 21 years of age at the time of application.

* (b) He should have passed atleast S.S.L.C. or equivalent examination at the time of application.

(c) His residence should be at the headquarters of the District/State during the period of accreditation.

(d) He should be a working journalist as defined in Section 2(f) of the Working Journalists Conditions of service (Miscellaneous Provisions) Act 1955 and whose principal avocation shall be journalism.

* These provisions will not be applicable in the case of serving accredited correspondents.

(e) At the time of application he should have served for not less than two years as a working journalist in one or more daily newspapers or recognised news agencies.

Note:—(1) Particulars regarding experience or any other item furnished in the application form may be got verified by the District Information Officer.

(2) In the case of correspondents to whom reporting facilities as defined hereunder are granted, the stipulation regarding experience shall be waived at the discretion of the Director of Public Relations.

4. In respect of press photographers attached to daily newspapers they should fulfil the following conditions for accreditation.

(i) He should have completed atleast 21 years of age at the time of application.

(ii) The press photographer to whom accreditation is sought for should be a person whose principal avocation is press photography and he should be a full time employee of the newspaper for which accreditation is sought for.

(iii) He should have worked as a press photographer for not less than three years in one or more daily newspapers at the time of application.

5. (i) In the case of news agencies, the factors to be taken into consideration for accreditation are:—

(a) Continuous functioning for a period of not less than ten years.

(b) Serving at least ten newspapers.

(c) Regularity in service and supply.

(ii) In the case of a new news agencies, the granting of accreditation shall be left to the discretion of the Press Accreditation Committee.

6. (a) Accrediiation will normally be limited to dailies which have been continously in existenence for a period of one year with a minimum certified circulation of 3000 copies in the case of dailies published from within the State and 25000 copies in the case of English daily newspapers published from outside the State.

*(b) Newspapers having a circulation of less than 5000 copies will be eligible for accreditation of one cordespondent at the production centre only.

* In deserving cases Press Accreditation Committee will relax this provision in order to give accreditation to a correspandent at the State capital also.

7. (a) Normally a newspaper will not be entitled to have more than one accredited correspondent. However accreditation will be granted to a maximum of three correspondents in the case of dailies having a circulation of not less than 50,000 copies and two in the case of dailies having a circulation of more than 10,000 copies. Dailies having a circulation of one lakh land above will also be eligible for having one additional accredited correspondent in the State capital.

(b) Accreditation will also be granted to a maximum of three correspondents in the case of news agencies of standing at the State headquarters and two in the regional centres of Cochin and Calicut.

(8) (a) Accreditation of press photographer is limited to dailies which have been continuously in existence for a period of one year with a minimum certified circulation of over 25,000 copies in respect of dailies published from within the State and over one lakh and above in respect of English dailies published from outside the State. However for dailies having lesser circulation, accreditation will be granted to one photographer at the district in which the paper orginates, provided it enjoys a circulation of 10,000 copies and above.

(b) A newspaper is not entitled to have more than one accredited photographer each at the State and district headquarters.

9. A press accreditation card signed by the Director of Public Relations will be issued to each accredited correspondent. Admission to special functions will, however be governed by invitations.

Note:—(1) The person to whom an accreditation card is issued is responsible for its safe custody.

(2) The card should be renewed every year.

(3) The card should be surrendered in the event of transfer or when the person concerned ceases to be an accredited correspondent.

(4) In case of loss, the matter may be reported immediated to the Director of Public Relations under intimation to the concerned District Information Officer.

(5) Correspondents have to remit a sum of Rs. 5 for the issue of duplicate cards.

10. Accreditation is personal and not transferable.

11. Accreditation does not confer any official status on the correspondent. Government merely recognise that the correspondent represents the newspaper or the news agency which employ him. He should not have letter head and visiting cards with the words "Accredited to the Government of Kerala", etc.

*In respect of accredited photographers no responsibility is taken by the Department of Public Relations for obtaining clearance from the military and the civil agencies of Government where such clearance is necessary for national security purposes.

12. (a) When a correspondent/Press Photographer ceases represent the newspaper or the news agency on behalf of which he is accredited, the fact should be brought to the notice of the Director of Public Relations in writing by the correspondent/Press Photographer as well as by the Managing Editor/Editor/Managing Director, or Proprietor of a newspaper or in the case of a news agency by the General Manager concerned within fifteen days failing which facilities accorded to the newspaper or news agency may without following the procedure prescribed in Rule 13 (ii), be withdrawn by the Director of Public Relations and action taken communicated to the members of the press accreditation committee. An accredited correspondent/Press Photographer who is continuously absent for two months from headquarters shall forfeit his accreditation. This a bsence may be extended by two months more on a written request from the Managing Editor/Editor/Managing Director or Proprietor of the newspaper or the General Manager of the news agency. The accredited correspondent/press photographer will also directly inform the Director of Public Relations about his absence from headquarters.

(b) The accreditation facilities extended to the correspondent/press photographer of a newspaper or news agency will be withdrawn and the accreditation cancelled in case the newspaper or news agency

suspends or ceases publication for over a period of one month. In such cases the accreditation facilities withdrawn will be restored to the correspondent/press photographer immediately after the newspaper or news agency resumes publication as such within a period of 2 months.

13 (i) A Correspondent will be liable to disaccreditation or cancellation of reporting facilities, if :—

(a) he uses information and facilities accorded to hime as an accredited correspondent for publication of official secrets the inviolability of which is accepted by general understanding;

(b) in the course of his duties he behaves in an undignified or unprofessional manner ;

(c) he ignores or violates the condition on which information and facilities are provided by Government or acts contrary to any provision of these rules ;

(d) he causes wilful publication of news that is incorrect or false, in so far as Government are concerned ; provided that if the newspaper is responsible and not the correspondent for the wilful publication of false, mala fide or incorrect reports or abuse of confidence, the newspaper concerned will be liable to disaccreditation.

(ii) Action under rules 13 (i) will be taken by the Director of Public Relations. However the matter will be placed before the press Accreditation Committee at its next meeting.

14. The list of accredited press correspondents/press photo graphers should be reviewed annually by the Director of Public Relations in consultation with the State Press accreditation committee when changes in circulation, status, service, etc. of the newspapers/news agencies should be subjected to review.

15. These Rules come into effect from 1-8-1982 and supersede the earlier rules for accreditation of Press Correspondents at the state and district headquarters.

16. Notwithstanding anything contained in these Rules, Government shall be free to take any action warranted by circumstances in matters relating to accreditation and disaccreditation and in all cases Government's decision shall be final.

Annexure

1. (a) *Granting of Press Facilities* :

Notwithstanding anything contained in the above rules, Government will have the discretion to grant Press facilities to the following categories of Press correspondents/press photographers/television cameramen/ News reel cameramen.

(i) To correspondents/Reporters representing newspapers and news agencies for a maximum period of three months.

(ii) To correspondents, News reel and T.V. cameramen to facilitate coverage of special functions or events, for a maximum period of one month.

(iii) To the correspondents/city editors of news weeklies/fortnightlies dealing with current affairs which have a certified circulation of more than 25,000 copies for a maximum period of one year.

(iv) To those correspondents/Press photographers who replace accredited correspondents on leave and other short vacancies.

*Granting of Press facilities ensures only convenience for reporting and coverage of functions etc. It does not confer free travel facilities, Press room services, free supply of Gazette and priced publications, and eligibility to get official invitations.

(b) An identity card, with the photograph of the person concerned signed by Director of Public Relations will be issued.

(2) *Press Identity Cards* :

Press Identity cards signed by the Director of Public Relations will be issued to those Editors/Managing Editors/Managing Directors whose daily newspaper is included in the Media List of Government advertisements.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O.(Rt.)No. 1123/82/LBR. *Dated, Trivandrum, 18th October 1982.*

The award of the Industrial Tribunal, Quilon in respect of the dispute between the Management of Sri K. V. Abraham, Managing Proprietor, Twin Rock Estate, Vembly Estates, Urumbikara, Mundakayam P. O. and the workmen of the above establishment represented by (1) The President, High Range Labour Union, Mundakayam and (2) The General Sresident, Travancore-Cochin Thottam Thozhilali Uecretary, Mundakayam, received by Government on 12-10-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Gentral Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Court of the Industrial Tribunal, Quilon

Dated, this the 7th day of October, 1982

Present:

Sri C. N. SASIDHARAN, B.SC. B. L.,

Industrial Tribunal

In

INDUSTRIAL DISPUTE NO. 14 OF 1982.

(Old No. 1 of 77 of I. T. Alleppey

Between

Sri K. V. Abraham, Managing Proprietor, Twin Rock Estate, Vembly Estates, Urumbikara, Mundakayam P. O.
(By Advocate Sri C. K. Parameswara Panicker, Alleppey)

And

The workmen of the above establishment represented by
(1) The President, High Range Labour Union, Mundakayam and
(2) The General Secretary, Travancore-Cochin Thottam Thozhilali Union, Mundakayam.

(By Advocate, Sri P. Narayanan Nair, Alleppey)

GA. 193/V.

AWARD

This Industrial Dispute between the above parties was originally referred to the Industrial Tribunal, Alleppey as per G. O. (Rt) No. 1617/76/ LBR dated 18-12-1976. That Tribunal registered this case as Industrial Dispute No. 1/77. Subsequently after the change in jurisdiction, this Industrial Dispute was transferred to this Tribunal by orders of Government and re-numbered as shown above.

The issues referred for adjudication are as follows :--

(1) Denial of employment of 46 permanent workers in Twin Rock Estate.

(2) Denial of employment of 10 workers in Vembly Estate.

Originally the parties to the dispute were the Employer on the one hand and the Union members 1 and 2 alone. Only the Management and workmen represented by Union No. 1 appeared before the Industrial Tribunal Alleppey. Union No. 2 had been set exparty.

The Union No. 1 filed their claims statement contending briefly as follows. The Union represents 46 workers in Twin Rock Estate belonging to the Management. They have been denied employment inspite of an arbitration award passed by the Labour Commissioner to Government of Kerala in Industrial Dispute No. 2/72 on 1-6-1974. Similarly 10 workers of the Vembly Estate belonging to the same Management were also denied employment. All these workmen have to be reinstated with backwages and other benefits from the date of denial of Employment.

The Management filed a counter statement raising the following contentions. The dispute regarding the denial of Employment to thos workmen referred to in the statement filed by Union No. 1 was the subject matter of Industrial Dispute No. 2/72 before the Labour Commissioner, Government of Kerala, who as arbitrator passed an award on 1-6-1974. The award directed the management to reinstate without backwages but with continuity of service these 46 workmen of the Twin Rock Estate. It was also directed that the 10 workers of Vembly Estate should be reinstated without backwages if the management had employed new workmen within a period of one year from the date of denial employment. The dispute was therefore fully and finally settled and there cannot be a further adjudication regarding the same. The Twin Rock Estate has been closed from 15-3-1974. The reference relating to a closed Estate is also incompetent. Even otherwise the claim for re-employment is not justified for the various reasons set out in the claims statement.

The Industrial Tribunal Alleppey after examining one witness for the workmen as WW1 for the workmen, passed an award against the Management on 1-6-1977 since the management had deleberately absented from the proceedings. This award was subsequently set aside by the same Tribunal as per order dated 27-10-1977 on application filed by the management. Subsequently on an application filed by 8 workmen of the Vembly Estate referred to earlier were also impleaded. They filed a claim

statement adopting the claim statement filed by the Union No. 1. A counter statement was filed by the management disputing the claim statement of the workers. A replication was also filed on behalf of the workmen re-affirming their contentions.

The parties adduced evidence. The Union Examined one more witness as WW2 and Ext. W1 and 2 were also marked. The management has examined MW1 and Ext. M1 to MW9 were marked on the side of the Management.

The main contention advanced on behalf of the Management is that an adjudieation on the issues referred is barred by resjudicata by reason of the decision of the Labour Commissioner Government of Kerala, in Industrial Dispute No. 2/72 dated 1-6-1974. It is common case that the alleged denial of Employment to the workmen in question was the subject matter of Industrial Dispute 2/72 before the Labour Commissioner, Kerala, who was called upon to adjudicate the dispute as arbitrator appointed by agreement of both parties. It is also not disputed that the Labour Commissioner passed an award adjudicating the dispute. The case of the workmen that the Management did not implement the award and continue to deny Employment to the workmen. It is therefore clear that the dispute now before me and the dispute adjudicated by the Labour Commissioner is the same viz. denial of Employment of the workmen. The non implementation of the award of the Labour Commissioner is not a fresh dispnte on which a fresh award is competent. A fresh enquiry and decision on the same issue is barred by resjudicata. I therefore find that the reference is barred by resjudicata.

The question of going into the other contentions raised by the parties does not therefore arise.

In the result I find that the reference is barred by resjudicata. I make it clear that this finding will not preclude the parties from seeking reliefs if any available to them under the law, for claiming benefits under the award passed by the Labour Commissioner, Government of Kerala in Industrial Dispute No. 2/72 before the appropriate forum if so adviced. The parties will bear their respective costs.

Quilon,
7-10-1982.

C. N. Sasidharan,
Industrial Tribunal.

Appendix

Witnesses examined on the side of the Worker :

1. WW1. Bhaskaran Pillai.
2. WW2. P. S. Abdul Rehman.

Witness examined on the side of the Management :

1. K. V. Abraham.

Documents marked on the side of the Worker :

Ext. W1. Arbitration Award dated, 1-6-1974 passed by the Labour Commissioner, Government of Kerala.
Ext. W2. Copy of letter dated 1-4-1973 to the Government by Unions.

Documents marked on the side of the Management :

Ext. M1. Copy of the closure notice of Twin Rock Estate together with a statement of reasons for closure.
Ext. M2. Copies of closure notice sent to the Unions and Government.
Ext. M3. Copy of letter from Deputy Labour Officer to Union dated 24-3-1972.
Ext. M4. Copy of retrenchment notice dated 20-6-1972.
Ext. M5. Copy of conciliation settlement dated 13-8-1971.
Ext. M6. Letter dated 6-9-1975.
Ext. M7. Letter dated 16-3-1972.
Ext. M8. The arbitration award.

PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1255/82/LBR. *Dated, Trivandrum, 18th November 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between Sri M. K. Devadas, Contractor, T. S. No. 72, Arpookara West P. O., Kottayam, and the workmen of the above concern represented by the General Secretary, Ettumanoor Chethu Thozhilali Union, Ettumanoor, received by Government on 4-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. Sivadasan
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Friday the 22nd day of October, 1982

Present:

Shri N. SUKUMARAN, B. Sc., B.L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 244 OF 1979

Between

Shri M. K. Deva Das, Contractor, T. S. No. 72, Arpookara West P. O., Kottayam

And

The workmen of the above concern represented by the General Secretary, Ettumanoor Chethu Thozhilali Union, Ettumanoor.

Representations :—

Shri Thomas Rajan,
Advocate, Kottayam. For *Management.*

Shri P. K. Chithrabhanu,
Advocate, Kottayam. For *Union.*

AWARD

Alleged denial of employment to Shri N. C. Vasu is the issue referred for adjudication by Government as per G. O. (Rt.) No. 896/78/L & H dated 27-5-1978.

2. Shri N. C. Vasu admittedly was a Toddy Tapper in T. S. No. 72 of Ettumanoor Range. Shri M. K. Deva Das impleaded as the employer in the reference was the Contractor for the relevant period.

3. The Union did not file any claim statement. The claim available is from the worker Shri Vasu. He complains that he who had put in 25 years of continuous service as a Toddy Tapper in the particular toddy shop, was denied employment without any reason whatsoever on 17-10-1976. He is claiming reinstatement with arrears in wages and other benefits.

4. The employer in his written statement contends as follows :-

The length of service claimed is not correct. There was no continuous service also. There was a break for about 5½ months from 3rd of May 1972. Some time immediately prior to 3-5-1972 Shri Vasu committed theft of toddy. When he was questioned about it he refused to enturst the toddy tapped by him to the shop. He was selling it in a clandestine manner to his own customers. Finally he submitted a written apology on 23-10-1972 and he was permitted to measure the toddy in the shop. Reinstatement was on condition that he will repay the loss sustained by the employer in instalments. There was also a guarantee from the Union that Shri Vasu will not repeat such misconducts. But Shri Vasu did not honour his commitment. He repeated theft in March 1973 for which action was taken. Then again the Union and the other employees intervened and gave written undertaking that Shri Vasu will not repeat the misconduct any more. He was punished by way of a fine of Rs. 150 and he accepted that punishment. But he did not improve. Instead he committed theft of toddy again on 15-10-1976. The Excise Officers recovered three litres of toddy from his residence and registered a case against him. Then Shri Vasu absconded and did not thereafter report for work. It is a clear case of abandonment and there was no denial as complained. As a matter of fact he was not really available for employment from 17-10-1976 and there was no occasion for denial. The Ettumanoor Chethu Thozhilali Union had no members in this particular shop and therefore it has no representative capacity to represent the workmen. Shri Vasu is not entitled to any reliefs.

5. The main point arising for consideration in view of the rival contentions is as to whether there was a denial as alleged or an abandonment as contended. The evidence consists of three witnesses for the Union and two for the Management. Exts. available are M1 to M3 and W1 and W2. MW1 and WW1 are respectively the employer and the workman.

6. The workman as WW1 has given evidence that he was denied employment by the Management. The employer in his chief examination has repeated the contentions in the written statement stating that there was

an abandonment. But he had admitted in cross-examination that Ext. W1 notice dated 20-10-1976 was issued by him to Shri Vasu. It is specifically mentioned in the notice that the services of Shri Vasu as a Tapper had been terminated with effect from 17-10-1976. It is stated therein that the termination is pursuant to Shri Vasu's involvement in a criminal case initiated by the Excise Officials on 15-10-1976. The notice gives a clear indication as to what had happened. It was not a voluntary abandonment, but a termination effected by the Management. In the face of Ext. W1 the contention that there was no denial or termination but only a voluntary abandonment cannot be accepted as genuine. Therefore no significance need be attached to the oral evidence of MW2 that Shri Vasu abandoned the job when he was involved in the criminal case. There is also nothing important in the evidence of witness Nos. 2 and 3 for the workman. So their evidence need not be discussed in detail. Hence there is no difficulty to hold that there was a denial by way of termination of the employment and I do so.

7. The management has taken up a position that the workman was guilty of a misconduct and therefore he is not entitled to any reliefs. That is the position stated in Ext. W1 also. The misconduct alleged is that the workman had committed theft of toddy on 15-10-1976. Admittedly there was a criminal case in connection with the alleged theft. The judgment in the concerned case is Ext. W2. It can be seen from Ext. W2 that the workman and his wife together prosecuted for illegal possession of toddy were found not guilty and acquitted. There is no evidence before me from which it could be said that there was an actual theft, and that being the position finding in Ext. W2 that Shri Vasu was not guilty of the alleged theft has to be accepted. When that is so the misconduct attributed to Shri Vasu is also not established. So the termination was illegal.

8. Now remains the question as to what reliefs the workman is entitled. The Management has a serious case that this workman was a habitual offender and he had been punished on previous occasions for misconduct of theft of toddy and therefore he can no more repose any confidence in him. Exts. M1 and M2 are relied on for this purpose. Ext. M1 is alleged to have been issued by Shri Vasu in October 1972. Shri Vasu had attempted to deny the genuineness of the same. But the attempt was not very successful. He had admitted that the signature in it is similar to that of his. He also did not categorically say that it was not issued to him. He gave only evasive answers when questioned about Ext.M1. But he says that he does not remember to have issued such a letter. In these state of affairs the testimony of MW1 that it was issued by Shri Vasu can be accepted. In Ext. M1 Shri Vasu had admitted that he failed to measure the toddy in the shop from May to October 1972. He had also undertaken to make good the loss sustained by the employer because of his failure to measure toddy and to behave properly in future. Ext. M2 is a representation the genuineness of which is not in dispute. That is filed on behalf of Shri Vasu by his co-workers. That also concerns theft of toddy committed by Shri Vasu. The co-workers had suggested that Shri Vasu may be fined Rs. 150 for the misconduct. MW1 states that the representation was accepted on imposing a fine of Rs. 150. It is admitted that all the workers of the

particular toddy shop belonged to the C.I.T.U. Shri Vasu had admitted that he was also a member of that Union when his services were terminated. But that Union did not take up the cause of Shri Vasu and that is how he approached the A.I.T.U.C., which is now espousing his cause. The fact that even his co-workers did not support him is an indication that his conduct was not satisfactory. In these state of affairs it will be hard for the employer to reinstate him. It is also pertinent to notice in this connection that Shri Vasu, according to his own admission, has passed the age of 57. The normal age of superannuation as per the Kerala Toddy Workers' Welfare Fund Scheme, 1969 is 60 years. When all these facts and circumstances are taken together Shri Vasu cannot be given the relief of reinstatement.

9. The termination is illegal. So Shri Vasu is entitled to the benefits as per the Kerala Toddy Workers' Welfare Fund Scheme. In the circumstances of this case compensation will be adequate relief. Shri Vasu had lost six years of service when he could have served for another three years. A compensation of Rs. 3,500 will be adequate in the circumstances.

10. In the result an award is passed directing the Management to pay Shri N. C. Vasu a sum of Rs. 3,500 (Rupees three thousand and five hundred only) as compensation. He will not be entitled to any other reliefs other than those if any he is entitled under the Kerala Toddy Workers' Welfare Fund Scheme.

Ernakulam,
22-10-1982.

N. Sukumaran,
Presiding Officer.

Appendix

Witnesses examined on the Management's side :

MW1 Shri M. K. Devadas
MW2 ,, I. Chacko

Witnesses examined on the Union's side :

WW1 Shri N. C. Vasu
WW2 ,, Velu
WW3 ,, P. K. Krishnan

Exhibits marked on the Management's side :

Ext. M1. An undertaking statement of Shri Vasu dated 23-10-1972.
,, M2. Copy of an undertaking statement of the employees of T. S. No. 72 dated 12-6-1973.
,, M3. Copy of a letter dated 18-11-1976 from the Contractor, T. S. No. 72 to Shri P. T. Varghese, Secretary of the Union.

Exhibits marked on the Union's side :

Ext. W1. Termination notice dated 20-10-1976 issued to Shri Vasu by Shri M. K. Devadas.
,, W2. Certified copy of the judgment in S. T. 196/76 of the Judicial 1st Class Magistrate, Ettumanoor.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1173/82/LBR. *Dated, Trivandrum, 29th October* 1982.

The award of the Labour Court, Ernakulam in respect of the dispute between The Board of Management (represented by the President), Okkal Service Co-operative Society Limited No. 2181, Okkal Post and the workman of the above Co-operative Society Sri T.N. Rajan, Thottuparambil House, Okkal Post, Perumbavoor received by Government on 18-10-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Friday, the 8th day of October, 1982

Present:

Shri N. SUKUMARAN, B.SC., B.L.,

Presiding Officer

INDUSTRIAL DISPUTE No. 299 OF 1979

Between

The Board of Management (represented by the President), Okkal Service Co-operative Society Ltd., No. 2181, Okkal Post.

And

The workman of the above Co-operative Society Sri T. N. Rajan, Thottuparambil House, Okkal Post, Perumbavoor.

Representations:—

M/s. M. V. Joseph,
A. V. Xavier and
B. Ranjit Kumar,
Advocates, Ernakulam .. For *Management.*

M/s. K. Balachandran and
M. Jayakumar,
Advocates, Cochin-17. .. For *Workman*

AWARD

The issue involved in this reference made by Government as per G.O. (Rt.) No 702/79/L&H dated 14-5-1979 is "Dismissal of Shri T.N. Rajan from 7-4-1978".

2. Shri Rajan was the Paid Secretary of the Okkal Service Co-operative Society (hereinafter referred to as the Society). Disciplinary proceedings were initiated by the Society against Shri Rajan along with the Salesman of the Manure Depot owned and managed by it on the allegation that there were irregularities in the matter of purchase and sale of a consignment of Ammonium Sulphate from the Kalady Depot of F.A.C.T. on 24-2-1978. The case of the Society is that four tonnes of Ammonium Sulphate were purchased on that day and disposed of in a clandestine manner by Shri Rajan in connivance with the Salesman without actually bringing the manure to the Society or distributing it by sale to bona fide purchasers. The charge issued to Shri Rajan in this connection is Ext. M1 dated 30-3-1978. In the explanation Ext. M2 he denied having committed the alleged irregularities. The explanation was not satisfactory and therefore a domestic enquiry was ordered. An Advocate appointed to conduct the domestic enquiry rendered Ext. M20 finding wherein he acquitted the Salesman of the charge, but found that the Secretary Shri Rajan was guilty of the misconduct. In the disciplinary proceedings there was an additional charge of temporary misappropriation of Rs. 20 in 1975. But that item is not treated as a misconduct in the present proceedings. But the Society is banking on the same as an instance of bad antecedents. Admittedly there was a domestic enquiry. But the Management did not rely on the same and opted to adduce fresh evidence before this Court. So it is unnecessary to consider the validity of the domestic enquiry. We need only consider the merits of the charge raised against Shri Rajan.

3. Shri Rajan in his claim statement complains that he who was innocent was victimised by the Society by initiating disciplinary proceedings without any reasonable basis. He is claiming reinstatement with all benefits. The Society in its written statement contends that Shri Rajan was guilty of the misconduct attributed to him. It is further contended that the misconduct is serious enough to sustain the punishment of dismissal. It has yet another contention that Shri Rajan who had approached the Appellate Authority under the Shops and Commercial Establishments Act complaining of his dismissal cannot raise an industrial dispute and therefore the reference itself is bad. In the rejoinder Shri Rajan while repeating his case advanced in the claim statement states that the reference is perfectly valid inspite of the dismissal of the Shop Appeal stating that the Shop Appeal was dismissed as not pressed in view of the subsequent reference.

4. I shall first dispose of the objection regarding the maintainability of the reference. It is the admitted case that the Shop Appeal preferred by Shri Rajan was dismissed for default subsequent to the reference. The objection of the Society is that the provisions of the Industrial Disputes Act

are not applicable when appropriate remedies are available under the provisions of the Shops and Commercial Establishments Act. There is no Union espousing the cause of the workman." The learned counsel appearing on behalf of the Society relies on two decisions of the Andhra Pradesh High Court reported as A.I R. 1977 Andhra Pradesh 211 and A.I R. 1977 Andhra Pradesh 366 in support of the objection raised. In the first of the two decisions it was held that a workman whose case is not taken up by a Union cannot raise an industrial dispute if the remedy under the Shop and Commercial Establishments Act is available. In the latter decision it was said that an industrial dispute can be raised where a Union or a substantial number of workmen of the establishment have taken up the cause of the dismissed workman.

5. Admittedly the management Society is an industry and the Secretary a workman as those terms are defined in the Industrial Disputes Act. Under section 2A of the Industrial Disputes Act it is permissible to raise an individual industrial dispute. So there is no bar for seeking remedies under the Industrial Disputes Act when there is a dismissal even when there is no Union espousing the cause of the workman. The fact that he had earlier approached the Appellate Authority under the Shops and Commercial Establishments Act and suffered a dismissal of the appeal on account of the subsequent reference will not change the position in any way. It is also pertinent to note that the workman can seek greater reliefs under the Industrial Disputes Act than those are available under the Shops and Commercial Establishments Act. Under the Shops and Commercial Establishments Act there is a discretion for the Appellate Authority to order reinstatement or award compensation even if it is found that the dismissal is not proper. In these state of affairs I cannot follow the above decisions. I hold that the reference is perfectly maintainable. Before parting with this aspect of the case I may dispose of another controversy that was mooted at the Bar. The learned counsel appearing on behalf of Shri Rajan argued for the position that the Shops and Commercial Establishments Act was not applicable to the area where the Society has its activities and therefore the objection cannot stand even on facts. But it was admitted in the claim statement filed by Shri Rajan that the Shops and Commercial Establishments Act is applicable to the concerned area. In the light of that admission it was unnecessary for the Society to attempt to establish that the area is covered by the provisions of the Shops and Commercial Establishments Act. After admitting in the pleadings that the area comes within the operation of the Shops and Commercial Establishments Act it is not open to the workman to argue at the final stage that the provisions of that Act are not applicable.

6. Now I shall proceed to consider the merits of the allegations against Shri Rajan. There is only a general allegation in Ext. M1 charge that there were irregularities in the matter of purchase and sale of four tonnes of Ammonium Sulphate on 24-2-1978. In addition it was stated that two tonnes alone were accounted in the registers maintained in the Society when

as a matter of fact 4 tonnes were purchased. What is attempted to be shown at the stage of evidence is that actually no Ammonium Sulphate was brought to the Society on the relevant date even though 4 tonnes were purchased. The allegation is that the Society had lost the commission which it would have earned had the entire quantity been booked. There is a further case that F.A.C.T. was giving concession for transporting charges also and that was also lost by the Society. But the Society should have paid the transporting charges to the carrier had the manure been actually transported. So all that was lost if there was a clandestine transaction in relation to the unaccounted two tonnes is the commission for that quantity.

7. A new case was sought to be introduced through MWs. 1 and 4 that Ammonium Sulphate was very much in short supply during the relevant time and there was heavy demand for the same attracting high prices in the black market and there was every possibility of Shri Rajan making substantial amounts in this deal by selling the manure in black market. But this view is not endorsed by MWs. 2 and 5, the Depot Managers of FACT Depot, Kalady from where the purchase was made. MW2 is the present Depot Manager and MW5 was the Depot Manager-in-charge of the Depot on 24-2-1978. So the Story that dubious methods were adopted in order to sell the manure in black market and to make substantial unlawful gain cannot be accepted.

8. It is common case that 7½ tonnes of manure including two tonnes of ammonium sulphate purchased on 24-2-1978 were booked in the accounts and registers of the Society on that day itself. Exts. M3 series, five bills numbering 716241 to 716245, were shown as the basis for the expenditure booked in Ext. M7 Day Book and Ext. M8 Ledger. The stock had been entered in Ext. M9 Manure Stock Register also. Two tonnes of ammonium sulphate have been sold on the same day as could be seen from the carbon copies of bills contained in Ext. M10. The complaint is that the Sales are bogus. It is said that there was a mass petition complaining that manure was disposed of without actually distributing it through the Society. MW1, the then President who is also the President at present, speaks to that aspect. But the mass petition is not produced. According to the Society individual complaints were also filed by four persons regarding this transaction and those complaints proved by MW1 are Exts. M11 to M14. One of those complainants had been examined as MW3. Ext. M12 is the complaint filed by him. His case is that he was not issued any ammonium sulphate on 24-2-1978 even though he approached the Secretary for purchasing a consignment. But he has no case that there was actual stock in the Society when he made a demand for the manure. It is admitted by MW1 that there was no quota system or limit on sale of ammonium sulphate or any other variety of manure. It is further admitted by him that free sale of the manure was allowed and anyone could make purchases. The facility was available even to non-members of the Society as admitted by MW1. So the complaint that some of the persons were not issued manure when there was actually

stock has no reasonable basis. There is absolutely no evidence in support of the contention that the sales evidenced by Ext. M10 bill are bogus. None of the persons who were shown as the purchasers in Ext. M10 were examined on the side of the Management. On the other hand one of the purchasers had been examined by the workman as WW5. He has given evidence that he had made an actual purchase as per bill No. 10390 contained in Ext. M10. That is one of the disputed bills. In these state of affairs the case of the Society that no manure was brought to the Society and that Ext. M10 bills are concocted to cover a shady transaction cannot be accepted. So we have to proceed on the basis that two tonnes of ammonium sulphate was brought to the Society and sold on 24-2-1978. When that is the position the Society had not substained any loss on account of the two tonnes already booked in the accounts. At any rate the Secretary cannot be held liable for the irregularities, even if any, in the sale of manure already brought and booked in the accounts of the Society as it is the admitted case that the Salesman is conducting the sale of manure without the concurrence and knowledge of the Secretary. The witnesses examined on the side of the Management had admitted that fact. So we need only see as to whether two more tonnes of ammonium sulphate was actually purchased on that day by the Secretary and disposed of without accounting it in the relevant records of the Society.

9. Ext. M21 is a register known as Issue Register concerning purchases made by the Society from the FACT Depot. The entries in that book are normally made by the Depot Officer giving the details of the manure purchased from there. The Depot Officers sign their signature also whenever entries are made. The entries concerning the purchase on 24-2-1978 appearing at page 10 of the book is separately marked as Ext. M21 (a). There bill Nos. 716211 to 716246 are entered. Bills shown for ammonium sulphate are Nos. 716244 and 46. There is a correction regarding the total weight of ammonium sulphate. Now it appears as 4. MW5 the Depot Manager who made the entries Ext.M21 (a) states that the figure 4 as it now appears was not entered by him. The case of the workman is that the figure was only 2 and the correction was made by somebody to foist a case against him. But we have other relevant registers maintained in the FACT Depot concerning this transaction. Ext M 5 is the Turnover Register maintained at the Depot. Page 32 of that Register contains entries relating to the purchases made by the Society on the relevant date. Those entries are Ext. M25 (a). The total quantity of manure purchased as per those entries is 9½ tonnes of which ammonium sulphate is shown as 4 tonnes. The entry is admittedly signed by Shri Rajan. Ext. M21 gives the extracts from Ext. M25. An argument is advanced that it is possible to alter the figures in Ext. M25 (a). But the entries prima facie do not admit of a possible argument that they are not genuine. They appear to have been written in the ordinary course and maintained intact without tampering. The bill numbers are also shown in

the register as 716241 to 716246. Ext. M24 is the carbon copy of the bills produced and proved by MWs. 2 and 5. The carbon copies of the six bills are separately marked as Ext. M21 (a). It is admitted that Shri Rajan had signed bill Nos. 716241 to 716245. The signature in Bill No. 716246 is denied by Shri Rajan. It is also argued that it was unnecessary to prepare two separate bills for the same variety of manure and it is probable that bill No. 716246 for two tonnes of ammonium sulphate was later prepared by the Depot Manager in the name of the Society to dispose of that manure at his convenience. It is explained by MW5 that sometimes separate bills are written for the same variety of manure when the purchaser after making purchase of consignments wants an additional quantity of one or other of the items. The clear and convincing entries in Ext. M25(a) signed by Shri Rajan including the details of Bill No. 716246 is a sufficient circumstance to infer that that purchase was also covered by the one made by him. A comparison of the signatures in the bills show that bill No. 716246 was also signed by Shri Rajan. Admittedly Ext. M21 Issue Register was produced by Shri Rajan before the Depot Manager and taken back by him. It was not possible for the Depot Manager thereafter to make corrections in Ext. M21. It was Shri Rajan who made relevant entries in the Society's Register later and in all probability he must have corrected the entries in it. What is spoken to by MW1 is that originally it was 4 tonnes of ammonium sulphate and then it was later corrected as 2 and then again corrected back to 4 by Shri Rajan when the discrepancies were pointed out. In the face of Ext. M25 signed by Shri Rajan and the absence of corresponding entries in the other books of the Society maintained by him it is possible to make a reasonable inference that actually 4 tonnes were purchased but 2 tonnes alone were booked in the Society's accounts and attempts to correct Ext. M21 made by Shri Rajan to suppress the omission.

10. Shri Rajan in his evidence as WW3 states that he had actually purchased only 2 tonnes of ammonium sulphate. He had examined WW2 as the headload worker who loaded the consignment on that day in the lorry for the purpose of transport from the Depot to the Society to say that only 7 tonnes were loaded on 24-2-1978. It is not safe to act on the testimony of WW2 who is loading a number of trucks every day when he says at this distance of time that the remembers that he had loaded about 7 tonnes only on 24-2-1978. The other witness examined regarding this aspect on the side of the workman is WW1 the driver of the lorry in which the manure was transported. He has proved Ext. W3 as the G. V. R. for the particular trip in which $7\frac{1}{2}$ tonnes alone are entered. But WW1 has admitted that it was Shri Rajan who had made those entries in the book in his own hand. WW1 has given the details of the bags carried on that day. But the total weight according to his description will come only to 7.25 tonnes. The fact that Shri Rajan himself made the entries in the G. V. R. is very significant. If actually he wanted to suppress two tonnes purchased then he would have made deliberate attempts to make the

entries in a manner suitable to his purpose. So the evidence of WW1 and Ext. W3 cannot also come to Rajan's rescue. WW4 is the then Salesman. He speaks only to the effect that two tonnes brought on the particular day were sold by him to the customers. WW6 and WW7 were respectively the President and the Committee Member of this Society on some other occasions. Their evidence is also not of much use so as to resolve the controversy as what they speak is that indents like Ext. W2 used to be given to the Depot whenever manure was purchased for the society. The argument is that there was a filled up indent like Ext. W2 for the purchase on 24-2-1978 and the same is purposely suppressed. MWs 2 and 5 have said that there was no practice of insisting of indents during the relevant period as there was no shortage in manure. If as a matter of fact Shri Rajan was serious about his case that he had presented an indent on that day then it was open to him to take steps for the production of that intend. At any rate it cannot be said that the Society which is not actually in possession of the indent is suppressing it. If at all there was an indent it must be in the Kalady Depot of FACT from where Shri Rajan could have summoned it through court. So the contention that there was an indent for 7½ tonnes on 24-2-1978 and the non-production of the same is fatal to the Society's case cannot be accepted. From the available evidence it can be concluded that actually 9½ tonnes of manure including 4 tonnes of ammonium sulphate were purchased from the Depot by Shri Rajan on 24-2-1978 and 2 tonnes of ammonium sulphate out of it were not accounted. To that extent the allegation raised against Shri Rajan is established.

11. Now we have to consider as to whether the facts established above amount to a misconduct. The evidence of MWs. 2 and 5 is to the effect that there was no sort of restrictions on sale of manure from the FACT Depot in 1978. Any stranger was at liberty to make purchases of manure from the Depot. The only difference in the case of registered dealers like the society was that they were paid commission which was not available to random purchasers. I have already mentioned that the evidence is that there was no scarcity for any manure including ammonium sulphate in February 1978. If that be so Shri Rajan could not have gained anything by suppressing the purchase. But if the 2 tonnes of ammonium sulphate were also brought in to the Society and sold through the Society then the Society would have gained a small commission. The fact that 2 tonnes purchased were not brought caused some little loss to the Society. To that extent Shri Rajan can be held liable for misconduct in having caused loss to the Society.

12. Now we have to consider as to whether the dismissal is a punishment that could be treated as proper for the misconduct. The Society has a case that the antecedents of Shri Rajan are not good and therefore he deserves the extreme penalty. In May 1975 Ext. M26 (a) receipt was issued to one Kalyaniamma acknowledging receipt of Rs. 236.97. In the

counterfoil of that receipt contained in Ext. M 26 book it was originally written as Rs. 216.97 and entries made in Ext. M27 cash book accordingly. That entry is Ext. M27(a). In Ext. M23 explanation submitted on 31-5-1977 Shri Rajan had explained the discrepancy by saying that the carbon copy of the receipt in Ext. M26 was not legible and that was the reason for the mistake. The explanation was accepted by the Society as convincing and no action was taken. Therefore it is not now fair to say that there was a deliberate attempt to misappropriate Rs. 20 on a previous occasion. Ext. M18 is another apology tendered by Shri Rajan on 13-7-1977. We have no evidence regarding the circumstance under which that apology was tendered. It states only in general terms that he regrets having committed some mistakes and he may be pardoned. That was also accepted by the Society. In the absence of the details regarding the circumstances leading to Ext. M18 it cannot be said that he had committed any serious error leading to that apology. Evidently the Society had accepted the apology and therefore the mistakes referred therein must have been something minor. Apart from this there is nothing to show that Shri Rajan was unworthy of the position held by him. It is also pertinent to note that the Society has no specific case that it has lost confidence in Shri Rajan. In these state of affairs the extreme penalty of dismissal for the present misconduct is too harsh to be sustained. In the circumstances of this case Shri Rajan is entitled to the relief of reinstatement. Loss of wages during the broken period will be adequate punishment for him for the misconduct. He can, therefore, be reinstated to the position from which he was dismissed with continuity of service but without the benefit of backwages. The broken period will not be considered for any purpose except for the computation of gratuity or retrenchment compensation as the case may be. I may make it clear that the broken period need not be considered for the purpose of increment also.

13. In the result an award is passed directing reinstatement of Shri Rajan on the above terms.

N. SUKUMARAN,
Presiding Officer.

Ernakulam,
8-10-1982.

Appendix

Witnesses examined on the Management's side:

MW1 Shri K. M. Bonifus
MW2 ,, G. Gopalakrishnan
MW3 ,, Sugathan
MW4 ,, Ramakrishna Pillai
MW5 ,, G. Gopinathan Nair

Witnesses examined on the workman's side

WW1 Shri Jose
WW2 ,, Ousephkutty
WW3 ,, Rajan, T. N.
WW4 ,, P. N. Prabhakaran
WW5 ,, Sudhakaran
WW6 ,, T.K. Sadasivan
WW7 ,, M.M. Mathai

Exhibits marked on the Management's side:

Ext. M1. Charge-sheet dated 30-3-1978 issued to Shri T. N. Rajan.
,, M2. Explanation of Shri T. N. Rajan dated 1-4-1978.
,, M3. Cash bill No. 716245 dated 24-2-1978 of the Kalady Depot.
,, M3. (a) Cash bill No. 716244 dated 24-2-1978 of the Kalady Depot.
,, M3. (b) Cash bill No. 716243 dated 24-2-1978 of the Kalady Depot.
,, M3. (c) Cash bill No. 716241 dated 24-2-1978 of the Kalady Depot.
,, M3. (d) Cash bill No. 716242 dated 24-2-1978 of the Kalady Depot.
,, M4. Copy of the cash bill No. 716246 dated 24-2-1978 of the Kalady Depot.
,, M5. A letter dated 1-4-1978 from the Depot Officer of the F.A.C.T., Kalady to the President of the Society.
,, M6. True copy of the A/R Turnover Register for the period from 1-1-1978 to 7-7-1979.
,, M6. (a) The page starting from 24-2-1978 in Ext. M6.
,, M7. Cash book of the Society for the period from 12-5-1976 to 30-6-1978.
,, M7. (a) Page 208 of Ext. M7.
,, M8. General Ledger of the Society for the year 1977-78.
,, M8. (a). Page 182 of Ext. M8.
,, M9. Manure Stock Register for the year 1977-78.
,, M9. (a) Page 55 of Ext. M9.
,, M10. Bill books of the Society (carbon copy) for the period from 4-1-1978 to 20-3-1978 (two books).
,, M10. (a) The page for 24-2-1978 in Ext. M10.
,, M11. A complaint dated 15-4-1978 from Shri E.V. Paily.
,, M12. A complaint dated 10-4-1978 from Shri T. S. Sugathan.

Ext. M13. A statement dated 3-3-1978 of Shri Velayudhan Narayanan.

,, M14. A statement dated 3-4-1978 of Shri Raman Sukumaran.

,, M15. Inspection book of he Society from 14-2-1976.

,, M15. (a) A page in Ext. M15 stating the discrepancies of the manure purchased and the action to be taken on the same.

,, M16. Audit report of the Society for the year 1977-78.

,, M17. Minutes book of the Society for the period from 13-9-1974 to 28-2-1978.

,, M18. Apology statement of Shri T. N. Rajan dated 13-7-1977.

,, M19. Bye-laws of the Society.

,, M20. Enquiry report dated 16-8-1978.

,, M21. Issue Register of the Society from 3-7-1975.

,, M21. (a) The entries for 24-2-1978 in Ext. M21.

,, M22. Copy of certain decisions of the Society.

,, M23. Explanation of Shri T. N. Rajan dated 31-5-1977.

,, M24. Cash Bill book (carbon copy) of Kalady Depot from 20-2-1978.

,, M24. (a) Cash bill No. 716241 dated 24-2-1978 in Ext. M24.

,, M25. Distribution Turnover Register of Kalady Depot for the year 1977-78.

,, M25. (a) Page 32 of Ext. M25.

,, M26. Receipt book (carbon copy) of the Society from March 1975.

,, M26. (a) Original receipt No. 848 dated 14-5-1975 for Rs. 236.97.

,, M26. (b) Carbon copy of receipt No. 848 dated 14-5-1978 in Ext. M26.)

,, M27. Cash book of the Society from 1-7-1974 to 11-5-1976.

,, M27. (a) Page 53 of Ext. M27.

,, M28. Copy of the resolution No. 1 of the Committee meeting held on 30-3-1978.

Exhibits marked on the Workman's side:

Ext. W1. Registered letter (cover) addressed to the Board of Management, Okkal Service Co-operative Society, returned unserved.

,, W2. Indent form of F.A.C.T. for manure.

,, W3. Goods Vehicle record sheets.

,, W3. (a) G.V.R. of K.L.K. 9436 dated 24-2-1978.

Kerala Gazette No. 3 dated 18th January 1983.

PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1092/82/LBR. *Dated, Trivandrum 6th October 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between (1) General Manager, Asian Paints (India) Ltd. Nariman Point, Bombay-4000021 and (2) Branch Manager, Asian Paints (India) Ltd. Jews Street, Cochin-682011 and their workmen represented by the General Secretary, Shertallai Mercantile & Shop Worker's Union, INTUC Office. Shertallai received by Government on 24-9-1982 is hereby published under section 17 of the Industrial Disputes Act,1947 (Central Act XIV of 1947).

By order of the Governor,
K. Sivadasan,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

(Dated this the 16th day of September, 1982)

Present :

Shri N. SUKUMARAN, B. SC. B. L.

Presiding Officer

INDUSTRIAL DISPUTE No. 17 OF 1980

Between

(1) General Manager, Asian Paints (India) Limited, Nariman Point, Bombay-4000021 and (2) Branch Manager, Asian Paints (India) Limited, Jews Street, Cochin-682011

And

The workmen of the above concern represented by the General Secretary, Shertallai Mercantile & Shop Worker's Union, INTUC Office, Shertallai

Representations:—

M/s Menon & Pai, Advocates, Cochin-11. — For *Management.*

M/s. M. Rajasekharan Nayar & Ravi John, Advocates, Cochin-11 — For *Union.*

GA.195/J.

AWARD

Denial of employment to Shri Chandra Babu is the issue referred for adjudication by Government as per G. O. (Rt.) No. 222/80/LBR dated 25-2-1980.

2. Shri Chandra Babu was a Peon of the Ernakulam Branch of Asian Paints (India) Limited from June 1969. He was assisting the Godown Keeper Shri Ramakrishnan in the Godown where paints were stored and sold. While so some shortage in stock in the godown was detected in August 1972. There was a criminal case against the Godown Keeper and Shri Chandra Babu as accused in connection with that incident as C.C. 898/74. The case was registered in 1972 itself even though it was charge-sheeted only in 1974. That case finally ended in the acquittal of the accused as per Ext. W1 Judgement in 1977.

3. Shri Chandra Babu was on leave from 12-9-1972 to 23-9-1972. 24th was a Sunday. On the 25th Ext. M2 was written by him confessing that he was also a party to the misappropriation of paint worth Rs. 1400. It was thereafter that the Management reported the matter to the Police and the prosecution initiated.

4. The Union espousing the cause of the workman in the claim statement alleges that Shri Chandra Babu had worked till 27th of September 1972 and thereafter he was denied employment without any reason. It is further alleged therein that the Management had in 1977 offered him his dues and that is an indication that he was still on the rolls. According to the Union the denial of employment was without any valid reason and therefore the workman is entitled to back wages and other benefits. On the other hand the Management in its written statement contends that Shri Chandra Babu himself confessed guilt of having committed theft of paints and abandoned job with effect from the 25th of September 1972. The stand taken up by the Management is that the employee who so abandoned in the circumstances stated is not entitled to any benefits whatsoever. It is the further contention of the Management that it has lost confidence in Shri Chandra Babu and therefore he cannot in any event be reinstated.

5. Two witnesses were examined and four documents marked on the side of the Management. The oral evidence for the Union is limited to the testimony of Shri Chandra Babu as WW1. The document in defence is Ext. W1, the judgement in C.C. 898/74 of the 2nd Class Magistrate's Court, Ernakulam.

6. The main controversy is as to whether there was wilful denial of employment or a voluntary abandonment. The workman in his evidence as WW1 admits that he was assisting the Godown Keeper Shri Ramakrishnan in handling paints. He had also admitted though not in so many words that there was some deficiency in the stock in the godown. It is the admitted case that Shri Ramakrishnan, the Godown Keeper, is not in the Service of

the establishment now. Exts. M1 and M3 are the registers of employment for the years 1971 and 1972 respectively. From these Registers it can be seen that M/s Ramakrishnan and Chandra Babu were absent from 25-9-1972 till the end of that year and therefore their names were struck off from the rolls on the 1st of January 1973. There is a dispute as to whether Shri Chandra Babu worked upto the 27th of September or only upto the 25th. Ext. M1 shows that he was signing his attendance on the days on which he was present and working. He had not signed on the 25th, 26th and 27th of September 1972. So the case that he had worked upto 27th cannot be accepted as correct. He was on permitted leave till the 23rd of September and 24th was a Sunday. Now we have Ext. M2 confession statement admittedly written and signed by Shri Chandra Babu on the 25th. Therein he had stated that the stock to the extent of the deficiency was sold by him along with Shri Ramakrishnan to a Shop Keeper at Thanneermukkom and the sale proceeds appropriated between himself and Shri Ramakrishnan aftet leaving a commission to a third person who had acted as a contract for the sale. The attack against Ext. M2 is that it is an extracted confession. But it is admitted by Shri Chandra Babu in his evidence that none of the office bearers of the Management concern had any special motive to foist a false case against him. MW1 was then Branch Manager. He is not now in the services of the Management Company. He had resigned the job and taken up employment elsewhere. So at any rate he had no special motive to support the Management at this stage. He had given evidence that Ext. M2 is a voluntary statement given by Shri Ramakrishnan. It is not suggested that MW1 had any special reason to extract such a confession from Shri Chandra Babu. We have to remember that thare was admittedly desficiency in the stock which was handled by Shri Chandra Babu also. Naturally the Branch Manager would have questioned Shri Chandra Babu and the Store Keeper. Shri Chandra Babu then gave Ext. M2 statement. Ext. M1 shows that Shri Chandra Babu was not thereafter working. There is only the evidence of Shri Chandra Babu in support of his case that he was present in the office even after the 25th and that he was refused employment. The probability in the circumstances of the case is for Shri Chandra Babu to have abandoned the employment after giving Ext. M2 statement.

7. Much reliance is placed by the learned counsel appearing on behalf of the union on Ext. W1 judgement of the Criminal Court wherein Shri Chandra Babu and his co-accused Shri Ramakrishnan were acquitted. Ext. M2 was produced as evidence in that case also. But the learned Magistrate did not attach much importance to that document and the other evidence adduced in that case. But it is seen that the accused were acquitted in that case giving them the benefit of doubt. Another reason stated for the acquittal is the delay in launching the prosecution. So evidently there is no honourable acquittal. But here we are not very much concerned as to whether the accused were really guilty or not. We are concerned only with the question as to whether there was a denial of employment or an abandonment. I have already found that the circumstances indicate that there was an abandonment and not an actual denial.

8. Another argument for the Union is that Shri Chandra Babu's name was kept in the rolls till the end of 1972 and it was struck off on the 1st day of the next year and that termination amounts to a retrenchment without observing the due formalities ins sted by Section 25F of the industrial Disputes Act and therefore the workman is deemed to be in service. But if the workman had abandoned the job as is already held then the removal of his name from the rolls subsequently cannot have the effect of a termination of the services as the termination had already taken effect with the abandonment that occurred much earlier. When that is the position it is not the act of the Management that put an end to the services. So in any event it cannot be said that the termination was effected by the Management.

9. There were some developments subsequent to the acquittal as per Ext. W1. MW2 was promoted as the Divisional Manager and he was working in Bombay in 1977. Shri Chandra Babu met MW2 at Ernakulam when the latter had an official visit in 1977. On his return to Bombay he wrote Ext. M4 letter to the then Branch Manager instructing him to pay the arrears in salary due to Shri Chandra Babu for the days on which he had worked in September 1972 and also the bonus that was due for that year. On the basis of that letter Shri Chandra Babu was instructed by the Ernakulam Branch to contact the office and collect the arrears. On the basis of these developments an argument is advanced that the Management had been treating Shri Chandra Babu as an employee till 1977. But there is nothing in Ext. M4 to indicate that the Management had treated Shri Chandra Babu as an employee even when Ext. M4 and instructions that followed were issued. Ext. M4 only gives direction for payment of the arrears that were due till September 1972. That letter does not contain anything advantageous to the workman.

10. It is true that the workman had raised an Industrial dispute even in 1973 as admitted by MW1. But thereafter nothing happened on the basis of that dispute till the acquittal as per Ext. W1. The copy of the letter appended to the reference shows the basis on which the conciliation proceedings were revived after the acquittal and after Ext. M4 letter. MW1 has given evidence that the workman had no claim for reinstatement or other benefits apart from a settlement of his accounts for the arrears as in September 1972. The wording of Ext. M4 and the intimation that was issued to the workman on its basis indicat that the workman wanted only those benefits when he met MW1 in 1977.

11. The Management has a further case that it has lost confidence in the workman and therefore he cannot be reinstated. The workman is not entitled in the circumstances of this case for reinstatement as he has abandoned the services. Even if it is assumed for a moment that the workman was denied employment it is a fit case where it could be said that the employer can no longer repose confidence in him. However it is un necessary for me to consider that aspect in further detail in view of my conclusion that their was an abandonment.

12. The workman is not entitled to any reliefs. In the result an award is passed finding that the workman had abandoned the job and that he is not therefore entitled to any reliefs.

(Camp) Kottayam,
16-9-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Management's side:

MW1 Shri Koshy Philip.
MW2 ,, M.P. Nair.

Witness examined on the Union's side:

WW1 Shri Chandra Babu

Exhibits marked on the Management's side:

Ext. M1. Register of Employment for the year 1972.
,, M2. A statement dated 25-9-1972 given by Shri Chandra Babu to the Management.
,, M3. Register of Employment for the year 1973.
,, M4. A communication dated 2-9-1977 from Shri Koshy Philip to Shri K.V.N. Kutty, Branch Manager, Cochin.

Exhibit marked on the Union's side:

Ext. W1. Certified copy of the judgment in C.C. No. 898/74 of the Additional Judicial Second Class Magistrate's Court, Ernakulam dated 31-5-1977.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1257/82/LBR. *Dated, Trivandrum, 18th November* 1982.

The award of the Labour Court, Ernakulam in respect of the dispute between Sri M. Muthayya, Managing Partner, Chidambaram Estate, Peermade and the workmen of the above Estate represented by the General Secretary, Estate Staffs and Employees Union of South India, Collectorate P. O., Kottayam received by Government on 5-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

Saturday, the 30th day of October, 1982

Present :

SHRI N. SUKUMARAN, B.SC., B.L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 44 of 1980

Between :

Sri M. Muthayya, Managing Partner, Chidambaram Estate, Peermade

And

The workman of the above Estate represented by the General Secretary, Estate Staffs and Employees Union of South India, Collectorate P. O., Kottayam

Representations :—

M/s Joseph and Markos, Advocate, Kottayam	For *Management*
Shri Joseph Mackil, Advocate, Kottayam	For *Union*

AWARD

The issue referred for adjudication by Government as per G.O. (Rt.) No. 647/80/LBR dated 15-5-1980 is "Dismissal of Sri M. Varghese".

II. The dismissal was after a domestic enquiry the correctness of which was challenged by the Union. I have found in my preliminary order dated 13-10-1982 that their was a proper and valid domestic enquiry. The findings of the Enquiry Officer were also confirmed by me. I am reproducing that preliminary order so as to make it a part of this award. Necessary facts have been stated therein.

"ORDER

Dismissal of Shri M. Varghese, a Supervisor of Chidambaram Estate, is the matter involved in this reference.

2. The management in its written statement contends that Shri Varghese prevented Shri Selvaraj, another Supervisor, from discharging his duties in weighing the green tea leaves and behaved in an unruly manner for which disciplinary proceedings were initiated and he finally dismissed after a proper domestic enquiry.

3. The Union has filed a rejoinder and an additional rejoinder. The allegation that Shri Varghese was guilty of the misconduct is denied. It is further staed that there was no domestic enquiry to the knowledge of the workman. According to the Union Shri Varghese was the seniormost Supervisor eligible for promotion to the next cadre of Asst. Conductor in the vacancy caused by the transfer of Asst. Conductor Shri Kuruvilla Pylo. Instead of promoting Shri Varghese the Management deputed Shri Selvaraj to do the duties of the Asst. Conductor. This was in clear violation of the earlier commitments made by the Management and a device to deny the legitimate promotion of Shri Varghese. Shri Varghese who is the Conveuor of the Estate Unit of the Union did not prevent Shri Selvaraj in performing his duties. He only approached Shri Selvaraj and tried to persuade him not to do the duties of the Asst. Conductor. This circumstance was utilised by the Management to cook up a case and initiate disciplinary proceedings. The Management had also launched a prosecution on the basis of the same incident. That ended in an acquittal. The enquiry is seen to have been conducted by the legal adviser of the Management. The workman was not given an opportunity to participate in the enquiry. In fact there was no enquiry and the records were manipulated by the Advocate appointed as the Enquiry Officer in connivance with the Management. The action of the Management lacks bona fides and it is nothing but victimisation. Shri Varghese is to be reinstated with all benefits. His claim for promotion has also to be considered and decided in this refrence.

4. Dismissal is the only issue covered by this reference. So the claim of the Union that the question of promotion has also to be considered and decided in this reference cannot be accepted.

5. The validity of the domestic enquiry has to be considered as a preliminary issue in view of the rival contentions in that regard. The Enquiry Officer was examined as MW1 and he has proved Exts. M1 to M4. The workman was also examined as WW1.

6. The enquiry was conducted ex parte. The Management's case is that the workman on whom the notice of enquiry was served purposely abstained and therefore the enquiry had to be held ex parte. Ext. M3 is the file containing the relevant papers concerning the enquiry. The findings of guilt rendered by the Enquiry Officer which finds a place in Ext. M3 is Ext. M4. The case of the Union is that Shri Varghese had no notice of the enquiry. Ext. M1 is alleged to be a copy of the notice issued by the Enquiry Officer proposing to start the enquiry at 2.30 p.m. on 30-4-1979 at the estate office. MW1 states that he had despatched the original of Ext. M1 by registered post with acknowledgement due to Shri Varghese and that Shri Varghese had accepted the same and the acknowledgement in token of such acceptance was received. The postal acknowledgement was not produced when MW1 was examined in the first instance. The acknowledgement said to have been signed by Shri Varghese was shown to him when he was examined as WW1. He denied having signed it. So the Enquiry Officer was recalled to prove that acknowledgement. The document so proved is Ext. M1 (a).

7. The genuineness of Ext. M1 (a) is seriously challenged by the Union. The non-production of the postal receipt under which the original of Ext. M 1 is said to have been sent by registered post is a sufficient circumstance, according to the learned counsel appearing on behalf of the Union, to doubt the genuineness of Ext. M1 (a). The argument is that Ext. M1(a) even if genuine can be in relation to some other communication. But this argument is not acceptable as the workman could very well have exposed the real position by producing the other communication if any received by him. Ext. M1 is dated 23-4-1979. Ext. M1 (a) contains to postal stamps dated 25-4-1979 and 26-4-1979. It has also registration No. 441. The name of Shri Varghese is shown as the addressee. It is seen to have been signed by the addressee on 25-4-1979. The signature in Ext. M1 (a) does not compare favourably with the signature that Shri Varghese had affixed in his deposition. But the signature in the deposition cannot normally be accepted in the face of the dispute regarding the signature that was present at that time as it is possible for him to make some deliberate deviations from the normal signature. MW1 says that he had issued a registered postal communication to Shri Varghese and that the acknowledgement Ext. M1 (a) was received back by him after service. The testimony of MW1 who is an Advocate has to be accepted if there are no compelling reasons to disbelieve him. The attack against MW1 is that he is the legal advisor of the Management Company. But such a suggestion was not made to MW1 when he was in the box. Then the allegation that he is the Management's lawyer and that way biased is raised without any bona fides. The normal presumption is that official acts are properly done. So ordinarily it has to be presumed that a postal acknowledgement like Ext. M1 (a) represents a true

acknowledgement of the addressee. But an argument is advanced that Shri Varghese was not available in the address shown in Ext. M1 at the relevant time. It is the admitted case that Shri Varghese was under suspension when the notice was issued. Shri Varghese as WW1 swears that he was not in the estate after his suspension. What is attempted to be made out is that he could not have received the communication despatched in his estate address that finds a place in Ext. M1. But when cross-examined it was admitted by Shri Varghese that he was allotted a quarters in the estate and that his family was staying in that quarters till recently. He had not surrendered the quarters so far. In these state of affairs it can be concluded that the notice was issued to the address where Shri Varghese was residing at that time. His case is that he was away even though his family was in the estate cannot be accepted on its face value in the absence of sufficient corroboration when we have Ext. M1 (a) which indicates that he had accepted the communication. There is yet another circumstance which deserves consideration in this connection. MW1 did not start the enquiry on the 30th of April 1979 as scheduled in Ext. M1 even though the workman had received the notice. Instead MW1 suo moto adjourned the enquiry to 8-5-1979 to give a further opportunity to the workman to participate. A fresh notice is said to have been issued concerning the adjourned enquiry. Ext. M2 is said to be the copy of that notice. What is stated by MW1 is that the original of Ext. M2 was sent by registered post and that it was returned refused. The sealed cover produced as such is Ext. M2 (a). Ext. M2 (a) shows that it was sent by registered post to Shri Varghese's address in the estate and returned refused. Normally it has to be presumed that the communication was tendered to the addressee and refused by him. It was on the refusal of Ext. M2 (a) that the Enqiry Officer proceeded with the enquiry ex parte on 8-5-1979. When all these circumstances are taken together it can safely be concluded that the workman had notice of the enquiry and purposely refuse to accept the notice repeated. So the workman has to thank himself for creating a situation where the Enquiry Officer had no go other than to proceed ex parte. The procedure adopted by the Enquiry Officer in holding the enquiry ex parte is therefore correct and proper.

8. Another criticism is that the Enquiry Officer in connivance with the Management had cooked up the enquiry papers. I have already mentioned that there is no basis for the allegation that the Enquiry Officer is the legal adviser of the Management concern and therefore biased in favour of the Management. Ext. M3 shows that Shri Selvaraj, the Supervisor, whose work is said to have been obstructed and four other witnesses were examined at the enquiry. Shri Selvaraj is the first witness. Witness Nos. 2, 3 and 4 are ordinary workers. Witness Nos. 1 to 4 have gveen evidence that Shri Varghese was guilty of the misconduct charged against him. If as a matter of fact no enquiry was conducted then it was open to the workman to cite and examine at least one of the workers who are seen to have given evidence at the enquiry. No attempt was made to do so. So the criticism that records were created without conducting an enquiry cannot be accepted as genuine.

9. The allegation of victimisation is not substantiated by any evidence or circumstances. Even otherwise the plea of victimisation can succeed only if the workman is innocent. Here in this case there is no contention even that the findings of the Enquiry Officer are perverse. On the other hand the objection is that a full-proof case had been cooked up without actually conducting an enquiry. The evidence available in Ext. M3 shows that there was ample evidence to reach the conclusion of guilt rendered by the Enquiry Officer. So this is a case where the misconduct is proved. It is also important to notice in this connection that Shri Varghese had also admitted that he had attempted to prevent Shri Selvaraj from proceeding with the duty of weighing green leaves. Of course his case is that the attempt was only to persuade Shri Selvaraj and not an actual prevention by force. But evidence is that Shri Varghese obstructed Shri Selvaraj in discharging the duty assigned to him. It may be that Shri Varghese had a genuine complaint that he is to be promoted as Asst. Conductor. But there are proper ways for redressing such grievances. Legitimate rights, if any, are to be achieved not by force and obstructing the normal functioning of the establishment. The evidence indicates that the charge was well established. The findings are, therefore, correct.

10. In the result it is found that there was a valid and proper domestic enquiry. The findings of the Enquiry Officer are also confirmed."

III. Both sides were heard on the question as to whether the workman is entitled to any reliefs in the matter of punishment. According to the Union the incident on the basis of which disciplinary action was initiated was part of a direct action resorted to by it to impress upon the Management that the demand for promotion of Shri Varghese was legitimate and therefore a serious view of the misconduct should not be taken. On the other hand the learned counsel for the Management argued for the position that the workman had wilfully obstructed the normal functioning of the establishment causing loss to it and he therefore really deserves the extreme penalty.

IV. Obstructing the normal functioning of the establishment is not the legitimate means to resolve disputes, if at all any. This is not a case where Shri Selvaraj, the other Supervisor, was promoted in the place of Shri Varghese. Shri Selvaraj was only asked to weigh the green leaves as a stop gap arrangement. The action of Shri Varghese who claims to be the Seniormost Supervisor in similar circumstances was therefore not in any way justifiable. It is, therefore, not just and equitable to direct the Management to reinstate Shri Varghese.

V. It is said that the workman had put in 14 years of continuous service. No bad antecedents are attributed to him. In such circumstances the workman has to be given some reliefs in the matter of punishment. The dismissal can be converted into one of discharge. The workman will be paid his benefits as though he was discharged on the date on which he was intended to be dismissed. In addition he will be paid Rs. 3,000 (Rupees three thousand) as ex-gratia payment.

(Camp) Munnar,
30-10-1982.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witness examined on the Management's side:

MW1 Shri K. J. Thomas.

Witness examined on the Union's side:

WW1 Shri M. Varghese.

Exhibits marked on the Management's side: -

Ext. M1. Copy of a notice dated 23-4-1979 issued to Shri M. Varghese, by the Enquiry Officer informing the date of the enquiry.

,, M1. (a) Postal acknowledgement signed by Shri M. Varghese on 25-4-1979.

,, M2. Copy of a notice dated 2-5-1979 issued to Shri M. Varghese by the enquiry officer informing the enquiry date of 8-5-1979.

,, M2 (a) Registered sealed cover addressed to Shri M. Varghese returned unserved.

,, M3. Proceedings of the domestic enquiry.

,, M4. Findings of the Enquiry Officer.

Kerala Gazette No. 3 dated 18th January 1983.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G O. (Rt.) No. 1262/82/LBR *Dated, Trivandrum,* 18*th November 1982.*

The award of the Labour Court, Ernakulam in respect of the dispute between the Management of the Kathayee Cotton Mills Limited, Alwaye and The workman of the above concern represented by Shri N. A. Prabhakaran Nair, Kottapparambil House, Kuttikkattukara, Alupuram P. O. received by Government on 4-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

In the Labour Court, Ernakulam
Saturday, the 23rd day of October 1982

Present:

SHRI N. SUKUMARAN, B. SC., B. L.,
Presiding Officer

INDUSTRIAL DISPUTE No. 73/1980

Between

The Kathayee Cotton Mills Limited, Alwaye

And

The workman of the above concern represented by Shri N A. Prabhakaran Nair, Kottapparambil House, Kuttikkattukara, Alupuram P. O.

Representations.—

M/s. Menon & Pai,
Advocate, Ernakulam .. For *Management.*

Sri M. C. John,
Advocate, Cochin-12. .. For *Workmen.*

GA. 225/V.

AWARD

Dismissal of Shri N. A. Prabhakaran Nair, Doffing Jobber, is the issue referred for adjudication by Government as per G. O. Rt. No 856/80/LBR dated 13-6-1980.

2. Pleadings have been advanced by both sides and some oral evidence was also adduced. When the matter came up for arguments the parties filed a joint statement wherein it is said that the matter had been settled on payment of a sum of Rs. 7,500 to the workman in full satisfaction of all claims. It was submitted that the payment was effected by way of a cheque pending realisation.

3. As matters stand now the dispute stands settled and therefore it is unnccessary to proceed with the adjudication. In the result an award is passed holding that there is no subsisting industrial dispute available for adjudication.

Ernakulam,
23-10-1982.

N. SUKUMARAN,
Presiding Officer.

Kerala Gazette No. 3 dated 18th January 1983.

PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O.(Rt.) No. 1304/82/LBR. *Dated, Trivandrum, 1st December* 1982.

The award of the Industrial Tribunal Calicut in respect of the dispute between (1) The Management of Kerala Tilery, Feroke; and (2) The President, Calicut Tile Manufacturers Association, Puthiyara Calicut-4 and their workmen represented by (1) The Secretary, Tile Workers Union (CITU), Feroke; (2) The Secretary, Tile and Ceramics Employees Union, Feroke; and (3) The Secretary, Tile Mazdoor Sabha, (HMS) Feroke received by Government on 24-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. SIVADASAN,
Deputy Secretary to Government.

Before the Court of the Industrial Tribunal, Calicut

(Saturday the 20th day of November, Nineteen hundred and eighty-two)

Present :

Shri K. P. DEVADAS, B.A., B.L.,

Industrial Tribunal, Calicut

INDUSTRIAL DISPUTE No. 20/82

Between

1. The Management of Kerala Tilery, Feroke; and
2. The President, Calicut Tile Manufacturers Association, Puthiyara, Calicut-4.

And

1. The Secretary, Tile Workers Union (CITU), Feroke;
2. The Secretary, Tile and Ceramics Employees Union, Feroke; and
3. The Secretary, Tile Mazdoor Sabha, (HMS) Feroke.

AWARD

This is an industrial dispute referred to this Tribunal for adjudication by Government of Kerala by Order No. G. O. Rt. 526/82/LBR dated 13-5-1982. The issue referred is the following:

Bonus for the year ended 31-3-1982.

Pursuant to notice management and Union No. 1 entered appearance and the other two unions remained ex-parte. The case remained posted for union statement and in the meantime it was reported that the matter has been settled and an endorsement to that effect was made on the reference order by the counsels of the parties. Hence I find that there is no dispute subsisting between the parties to be adjudicated. Ordered accordingly.

K. P. DEVADAS,
Industrial Tribunal.

Calicut.

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1305/82/LBR. *Dated, Trivandrum, 1st December* 1982.

The award of the Industrial Tribunal, Calicut in respect of the dispute between (1) The Management of West Coast Tile Works, Feroke; (2) The President, Calicut Tile Manufacturers Association, Puthiyara, Calicut-4 and their workmen represented by (1) The Secretary, Tile Workers Union (CITU), Feroke; (2) The Secretary, Tile and Ceramics Employees' Union, Feroke and (3) The Secretary, National Tile Labour Organisation, Feroke received by Government on 24-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

K. SIVADASAN,

Deputy Secretary to Government.

Before the Court of the Industrial Tribunal, Calicut

(Saturday, the 20th day of November, Nineteen hundred and eighty two)

Present:

SHRI K. P. DEVADAS, B. A., B. L.,

Industrial Tribunal, Calicut

INDUSTRIAL DISPUTE No. 22/82

Between

1. The Management of West Coast Tile Works, Feroke,
2. The President, Calicut Tile Manufacturers Association, Puthiyara, Calicut-4.

And

1. The Secretary, Tile Workers Union (CITU), Feroke;
2. The Secretary, Tile and Ceramics Employees' Union, Feroke; and
3. The Secretary, National Tile Labour Organisation, Feroke.

AWARD

This is an industrial dispute referred to this Tribunal for adjudication by Government of Kerala by Order G. O. Rt. No. 529/82/LBR dated 13-5-1982. The issue referred is the following :

Bonus for the year ended 31-3-1982.

Pursuant to notice the parties appeared and the case was posted for filing statement. In the meantime it was submitted that the matter has been settled out of court and the counsels for the parties have made an endorsement to that effect on the reference order. Hence I find that there is no subsisting dispute to be adjudicated. Ordered accordingly.

K. P. DEVADAS,
Industrial Tribunal.

Calicut.

Kerala Gezette No. 3 dated 18th January 1983.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 1306/82/LBR. *Dated, Trivandrum, 1st December,* 1982.

The award of the Industrial Tribunal, Calicut in respect of the dispute between the Management of (1) The Management of Calicut Tile Company, Feroke, 2) The President, Calicut Tile Manufacturers Association, Puthiyara, Calicut-4 and their workmen represented by (1) The Secretary, Tile Employees Union (I. N. T. U. C.), Feroke, (2) The Secretary, Tile Workers Union (C. I. T. U.), Feroke, (3) Secretary, Tile and Ceramics Employees Union, Feroke and (4) Secretary, Tile Mazdoor Sabha, Feroke received by Government on 24-11-1982 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

K. Sivadasan,

Deputy Secretary to Government.

Before the Court of the Industrial Tribunal, Calicut

(Saturday, the 20th day of November, Nineteen hundred and eighty two)

Present:

Shri K. P. DEVADAS, B.A., B.L.

Industrial Tribunal, Calicut.

INDUSTRIAL DISPUTE No. 23/82

Between

1. The management of Calicut Tile Company, Feroke.
2. The President, Calicut Tile Manufacturers Association, Puthiyara, Calicut-4.

And

1. The Secretary, Tile Employees Union (I. N. T. U. C.), Feroke;
2. Secretary, Tile Workers Union (C. I. T. U.), Feroke;
3. Secretary, Tile and Ceramics Employees Union, Feroke and
4. Secretary, Tile Mazdoor Sabha, Feroke.

AWARD

This is an industrial dispute referred to this Tribunal for adjudication by Government of Kerala by Order G. O. Rt. No. 528/82/LBR dated 13-5-1982. The issue referred is the following:

Bonus for the year ended 30-6-1981.

Pursuant to notice Unions Nos. 1 and 2 entered appearance and the other two remained ex parte. The case stood for filing statements of the parties and in the meantime it was submitted that the matter has been settled out of court. Counsels for the parties made an endorsement to that effect on the reference order. It is therefore found that there is no subsisting dispute to be adjudicated upon. Ordered accordingly.

K. P. DEVADAS,
Industrial Tribunal.

Calicut.

GOVERNMENT OF KERALA

Law (Legislation–Publication) Department

NOTIFICATION

No. 15864/Leg. Pbn. 2/82/Law. *Dated, Trivandrum, 25th October*, 1982.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II, Section 1, dated the 19th May, 1982, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 18th May, 1982.

By order of the Governor,
K. Viswanathan Nair,
Special Secretary to Government (Law).

THE PENSIONS' (AMENDMENT) ACT, 1982 (C. A. No. 20/82)

An

Act

further to amend the pensions' Act, 1871

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Pensions' (Amendment) Act, 1982.

2. *Amendment of section* 1.—In section 1 of the Pensions' Act, 1871 (23 of 1871), hereinafter referred to as the principal Act), for the words "It extends", the words "In so far as it relates to Union pensions, it extends to the whole of India and in so far as it relates to other pensions, it extends" shall be substituted.

3. *Insertion of new section 12A.*—After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. *Nomination by pensioner to receive moneys outstanding on account of pension.*—Notwithstanding anything contained in section 12 or in any other law for the time being in force,—

(a). any person to whom any pension mentioned in section 11 is payable by the Government of India or out of the Consolidated Fund of India (such person being hereinafter referred to as the pensioner) may nominate any other person (hereinafter referred to as the nominee), in such manner and in such form as may be prescribed by

the Central Government by rules, to receive after the death of the pensioner, all moneys payable to the pensioner on account of such pension at, before or after the date of such nomination and which remain unpaid immediately before the death of the pensioner ; and

(b) the nominee shall be entitled, on the death of the pensioner, to receive, to the exclusion of all other persons, all such moneys which have so remained unpaid :

Provided that if the nominee predeceases the pensioner, the nomination shall, so far as it relates to the right conferred upon the said nominee, become void and of no effect :

Provided further that where provision has been duly made in the nomination, in accordance with the rules made by the Central Government, conferring upon some other person the right to receive all such moneys, which have so remained unpaid, in the event of the nominee predeceasing the pensioner, such right shall, upon the decease as aforesaid of the nominee, pass to such other person.".

4. *Insertion of new sections* 15 *and* 16.—After section 14 of the principal Act, the following sections shall be inserted, namely:—

"15. *Power of Central Government to make rules.*—The Central Government may, by notification in the Official Gazette, make rules to provide for all or any of the following matters, namely:—

(a) the manner and form in which any nomination may be made under section 12A and the manner and form in which such nomination may be cancelled or varied by another nomination;

(b) the manner in which provision may be made, for the purposes of the second proviso to section 12 A, in any such nomination for conferring on some person other than the nominee the right to receive moneys payable to the nominee if such nominee predeceases the pensioner.

16. *Laying of rules.*—Every rule made by the Central Government under this Act and every rule made under section 14 by a Chief Controlling Revenue Authority with the consent of the Central Government, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

GOVERNMENT OF KERALA

Health (D) Department

NOTIFICATION

No. 23657/D2/81-1/HD. *Dated, Trivandrum 4th May* 1982.

The following Order No. S. O. 190 (E) dated the 31st March 1979, published in Part II Section 3 subsection (ii) of the Gazette of India Extraordinary No. 148, dated the 31st March, 1979, is hereby republished for general information.

By order of the Governor,
M.S.K. Ramaswamy,
Special Secretary to Government.

Government of India

Ministry of Petroleum, Chemicals and Fertilizers

(Department of Chemicals and Fertilizers)

ORDER

New Delhi, the 31st March, 1979.

S. O. In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely:

1. *Short title extent and Commencement.*—(1) This order may be called the Drugs (Prices Control) Order, 1979.

(2) It extends to the whole of India.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. *Definitions.*—In this Order, unless the context otherwise requires—

(a) "bulk drug" means any substance including pharmaceutical, chemical, biological or plant product or medicinal gas conforming to pharmacopoeial or other standards accepted under the Drugs and Cosmetics Act, 1940 (23 of 1940), which is used as such, or as an ingredient in any formulations;

(b) "dealer" means a person carrying on the business of purchase, or sale of drugs, whether as a wholesaler or retailer and whether or not in conjunction with any other business and includes an agent of a dealer;

(c) "distributor" means distributor of drugs or his agent or a stockist appointed by a manufacturer or an importer for stocking his drugs for resale to a dealer;

(d) "drugs" includes—

(i) a medicine for internal or external use of human beings or animals and all substances intended to be used for, or in the diagnosis, treatment, mitigation or prevention of disease in human beings or animals;

(ii) such substances, intended to affect the structure of any function of the human or animal body or intended to be used for the destruction of vermin or insects which cause disease in human beings or animals, as may be specified from time to time by the Government by notification in the Official Gazette; and

(iii) bulk drugs and formulations;

(e) "Form" means a Form specified in the Forth Schedule;

(f) "formulation" means a medicine processed out of, or containing one or more bulk drugs or drugs, with or without the use of any pharmaceutical aids, for internal or external use for, or in the diagnosis, treatment, mitigation or pevention of disease in human beings or animals, but shall not include—

(i) any *bona fide* Ayurvedic (including Sidha) or Unani (Tibb) system of medicine;

(ii) any medicine included in the Homeopathic system of medicine;

(iii) any substance to which the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) do not apply;

(g) "fee reserve" means a reserve created by appropriation of profits, but does not include reserves provided for contingent liability, disputed claims, goodwill, revaluation and other similar reserves,

(h) "Government" means the Central Government;

(i) "import", with its gramatical variations and cognate expressions, means bringing into India from a place outside India, and "importer", in relation to any goods at any time between their importation and consumption, includes any owner or any person holding himself out to be the importer;

(j) "leader price" means a price fixed by the Government for formulations specified in Category I, Category II or Category III of the Third Schedule, in accordance with the provisions of paraghs 10 and 11 keeping in view the cost or efficiency, or both, of major manufacturers of such formuations;

(k) "manufacture", in relation to any drug, includes any process or part of a process for making, altering finishing, packing, labelling, breaking-up or otherwise treating or adapting any drug with a view to its sale and distribution, but does not include the compounding or dispensing of any drug or the packing of any drug in the ordinary course of retail business, and "to manufacture" shall be construed accordingly;

(l) "manufacturer" means any person who manufactures a drug;

(m) "net worth" means the share capital of a company plus free reserve if any;

(n) "new bulk drug" means a bulk drug manufactured, whithin the country, for the first time after the commencement of this Order;

(o) "pooled price", in relation to a bulk drug, means the price fixed under paragraph 7;

(p) "pre-tax return" means Profits before payment of income-tax and surtax and includes such other expenses as do not form part of the cost of formulation;

(q) "price list" means a price list referred to in this Order and includes a supplementary price list;

(r) "retail price" means the retail price of a drug arrived at or fixed in accordance with the provisions of this Order and includes a leader price;

(s) "retailer" means a dealer carrying on the retail business of sale of drugs to customers;

(t) "retention price", in relation to a bulk drug, means the price fixed under paragraph 7 for individual manufacturers, or importers, or distributors, of such bulk drugs;

(u) "sales turn-over" means the product of units of formulations sold by a manufacturer or an importer, as the case may be, in an accounting year multiplied by retail price inclusive of salestax, if any, paid on direct sales by the manufacturer or importer but does not include excise duty and local taxes, if any;

(v) "Schedule" means a Schedule appended to this Order.

(w) "wholesaler" means a wholesaler of drugs or his agent or a stockist appointed by a manufacturer or an importer for the sale of his drugs to a retailer.

3. *Power to fix the maximum sale price of indigenously manufactured bulk drugs specified in First Schedule or Second Schedule.*—(1) The Government may, with a view to regulating the equitable distribution of an indigenously manufactured bulk drug specified in the First Schedule or the Second Schedule and making it available at a fair price and subject to the provisions contained in sub-paragraph (2) and after making such inquiry as it deems fit, fix, from time to time, by notification in the Official Gazette, the maximum price at which such bulk drug shall be sold.

(2) While fixing the price of a bulk drug under sub-paragraph (1), the Government may take into account the average cost of production of such bulk drug manufactured by an efficient manufacturer and allow a reasonable return on net-worth.

Explanation.—In this sub-paragraph, the expression "efficient manufacturer" means a manufacturer—

(i) whose production of such bulk drug in relation to the total production of such bulk drug in the country is large ; or

(ii) who employs efficient technology in the production of such bulk drug.

(3) No person shall sell a bulk drug at a price exceeding the price notified under sub-paragraph (1), plus local taxes, if any, payable:

Provided that until the price of a bulk drug is so notified, the price of such bulk drug shall be the price which prevailed immediately before the commencement of this Order and the manufacturer of such bulk drug shall not sell such bulk drug at a price exceeding the price which prevailed as aforesaid.

(4) (a) Where (after the commencement of this Order) any manufacturer commences production of a bulk drug specified in the First Schedule or the Second Schedule, the price of which has already been notified by the Government, he may sell the bulk drug at a price not exceeding the price so notified.

(b) Where the price of a bulk drug has not been notified by the Government, the manufacturer shall, within fourteen days of the commencement of the production of such bulk drug, make an application to the Government in Form I and intimate to Government the price at which he intends to sell the bulk drug and the Government may, after making such inquiry as it deems fit, by order, fix a provisional price at which such bulk drug shall be sold.

(c) The manufacturer referred to in this sub-paragraph shall, within six months of the commencement of such production, make a further application to the Government in Form I and the Government may, after making such inquiry as it deems fit, by notification in the Official Gazette, fix the price of such bulk drug.

4. *Power to fix retention price and common sale price.*—Notwithstanding anything contained in paragraph 3, the Government may, if it considers necessary or expedient so to do for increasing the production of an indigenously manufactured bulk drug specified in the First Schedule or the Second Schedule, by order, fix—

(a) a retention price of such bulk drug:

(b) a common sale price for such bulk drug, taking in to account the weighted average of the retention price fixed under clause (a).

5. *Power to fix maximum sale price of new bulk drug.*—(1) Every manufacturer of a new bulk drug shall, within fourteen days of the commencement of production of such new bulk drug, make an application to the Government in Form 1, and the Government may, after making such inquiry as it deems fit, decide to include such new bulk drug in this Order and by order, fix a provisional price at which such new bulk drug shall be sold.

(2) (a) In every case where a provisional price has been fixed for a new bulk drug, every manufacturer of such new bulk drug shall on completion of six months of production of such new bulk drug, make a further application to the Government in Form 1.

(b) on receipt of an application under clause (a), the Government may, after making such inquiry as it deems fit, by notification in the Official Gazette, fix the price of such bulk drug.

(c) The price fixed under clause (b) shall be the maximum selling price of such new bulk drug and no person (including a person manufacturing such bulk drug thereafter) shall sell such new bulk drug at a price exceeding the price so notified.

6. *Power to fix the maximum sale price of imported bulk drug specified in First or Second Schedule.*—(1) Every importer of a bulk drug specified in the First Schedule or the Second Schedule shall, within fourteen days of the importent of such bulk drug, make an application to the Government in Form 2.

(2) (a) The Government may, after taking in to consideration the information furnished in Form 2, by order, fix the price of such drug.

(b) The price fixed under clause (a) shall be the maximum sale price of such dulk brug and no person sball sell such bulk drug at a price exceeding the price so fixed.

7. *Power to fix retention price and pooled price for the sale of bulk drugs specified in First Schedule or Second Schedule, indigenously manufactured as well as imported.*—(1) Where a bulk drug specified in the First Schedule or the Second Schedule is manufactured indigenously and is also imported, the Government may, having regard to the sale prices prevailing from time to time in respect of indigenously manufactured bulk drugs, and those of imported bulk drugs, by order, fix, with such adjustments as the Government may consider necessary,—

(a) retention prices for individual manufacturers, importers, or distributors of such bulk drugs ;.

(b) a pooled price for the sale of such bulk drugs.

(2) Where a manufacturer of formulations utilises in his formulations any bulk drug, either from his own production or procured by him from any other source, the price of such bulk drug being lower than the price

allowed to him in the price of his formulations, the Government may require such manufacturer—

(a) to deposit into the Drug Prices Equalisation Account referred to in paragraph 17 the excess amount to be determined by the Government; or

(b) to sell the formulations at such prices as may be fixed by the Government.

8. *Prices of bulk drugs produced through indigenous research and development.*—(1) With a view to providing encouragement to the manufacturers of new bulk drugs, produced through original research and developmental efforts in the country and have not been produced elsewhere, the provisions of this Order shall not apply to such bulk drugs for a period of five years from the date of commencement of production of such new bulk drugs :

Provided that every manufacturer of such new bulk drug shall, within fourteen days of the commencement of production of such new bulk drug, make an application to the Government in Form I with a certificate from the Department of Science and Technology authenticating his claim of having produced it as an entirely new bulk drug and also furnish to the Government the name of the said new bulk drug, the price at which it may be marketed by him or used by him for captive consumption and such other additional information as may be required by the Government:

Provided further that the price furnished to the Government in respect of the said new bulk drug shall not be increased without the prior approval of the Government.

(2) After the expiry of the period of five years referred to in sub-paragraph (1), the provisions of this Order shall apply to the new bulk drug referred to in that sub-paragraph.

9. *Power to direct manufacturers of bulk drugs to sell bulk drugs to manufacturers of formulations.*—(1) The Government may, from time to time, by general or special order, direct any manufacturer of any bulk drug to sell such bulk drug to such manufacturers of formulations as may be specified in such order :

Provided that while making any such order, the Government shall have regard to all or any of the following factors, namely :

(a) the requirements for captive consumption of such manufacturer ;

(b) the requirements of other manufacturers of formulations;

(c) the planned growth of the pharmaceutical industry in conformity with the policy of the Government from time to time.

(2) For the purpose of making any order under sub-paragraph (1), the Government may call for such information from manufacturers, importers or distributors, of bulk drugs as it may consider necessary and such manufacturers, importers or distributors shall be bound to furnish such information within such time as may be specified by the Government.

10. *Calculation of retail price of formulations*—The retail price of a formulation shall be calculated in accordance with the following formula, namely:

$$R.P. = (M.C. + G.C. + P.M. + P.C.) \times \left[1 + \frac{MU}{100} \right] + E.D.$$

Where—

"R. P." means retail price.

"MG" means material cost and includes the cost of drugs and other pharmaceutical aids used including overages, if any, process loss thereon in accordance with such norms as may be specified by the Government from time to time by notification in the Official Gazette in this behalf.

"G.G." means conversion cost worked out in accordance with such norms as may be specified by the Government from time to time by notification in the Official Gazette in this behalf.

"P.M." means the cost of packing material including process loss thereon worked out in accordance with such norms as may be specified by the Government from time to time by notification in the Official Gazette in this behalf.

"P.C." means packing charges worked out in accordance with such norms as may be specified by the Government from time to time by notification in the Official Gazette in this behalf.

"M.U." means mark-up referred to in paragraph 11.

"E.D" means excise duty:

Provided that in the case of an imported formulation the landed cost shall form the basis for fixing its price along with such margin as the Government may allow from time to time.

Provided further that where an imported formulation is re-packed, its landed cost plus the cost of packing materials and packing charges as worked out in accordance with such norms as may be specified by the Government from time to time, by notification in the Official Gazette, shall form the basis for fixing its price.

Explanation.—For the purposes of this paragraph, "landed cost" shall mean the cost of import of drug inclusive of customs duty and clearing charges.

11. *Mark-up.*—Mark-up referred to in paragraph 10 includes the distribution cost, outward freight, promotional expenses, manufacturer's margin and the trade commission and shall not exceed—

(a) forty per cent in the case of formulations specified in Category I of the Third Schedule;

(b) fifty-five per cent in the case of formulations specified in Category II of the said Schedule;

(c) one hundred per cent in the case of formulations specified in Category III of the said Schedule.

12. *Power of Government to fix leader prices of formulations specified in Categories I and II of the Third Schedule.*—(1) The Government may, from time to time, by notification in the Official Gazette. fix the leader price of a formulation specified in Category I or Category II of the Third Schedule and such leader price shall operate as the ceiling sale price for every manufacturer of such formulations.

(2) Notwithstanding anything contained in sub-paragraph (1) where the selling price of a formulation of a manufacturer on the date of commencement of this Order is less than the leader price fixed under sub-paragraph (1), such manufacturer shall not except with the prior approval of the Government increase the selling price of his formulation.

(3) The Government may, of its own motion or on application made to it in this behalf by a manufacturer in Form 3 or Form 4 as the case may be, after calling for such information as it may consider necessary, by order, fix a revised leader price for a formulation.

13. *Power of Government to fix retail price of formulations specified in Category III of Third Schedule.*—(1) The Government may, from time to time, by order, fix the retail price of a formulation specified in Category III of the Third Schedule in accordance with the provisions of paragraphs 10 and II.

(2) Where the Government fixes or revises the price of any bulk drug under the provisions of this order and a manufacturer utilises such bulk drug in his formulations specified in Category III of the Third Schedule he shall, within thirty days of such fixation or revision, make an application to the Government in Form 3 or Form 4, as the case may be and the Government may, if it considers necessary, fix or revise the price of such formulation.

(3) The retail price of a formulation once fixed by the Government under sub-paragraph (1) shall not be increased by any manufacturer except with the prior approval of the Government.

(4) Any manufacturer, who desires revision of the retail price of a formulation fixed under sub-paragraph (1), shall make an application to the Government in Form 3 or Form 4, as the case may be, and the Government may, after calling for such information as it may consider necessary, by order, fix a revised price for such formulation.

(5) Notwithstanding anything contained in the foregoing sub-paragraphs, the retail price of a formulation, specified in Category III of the Third Schedule of a manufacturer shall, until the retail price thereof is fixed under the provisions of this Order, be the price which prevailed immediately before the commencement of this Order and the manufacturer of such formulation shall not sell such formulation at a price exceeding the price which prevailed as aforesaid.

(6) (a) Without prejudice to the provisions of the preceding sub-paragraphs the Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, fix a leader price for any

formulations specified in Category III of the Third Schedule and any manufactures of such formulation may sell such formulation at a price not exceeding the price so notified and intimate the Government accordingly.

(b) The provisions of sub-paragraph (2) shall not apply to such manufacturer.

14. *General Provisions regarding prices of formulations.* — (1) No Manufacturer or importer shall market a new formulation or a new pack, or a new dosage form of his existing formulation specified in Category I or Category II or Category III of third Schedule without obtaining the prior approval of its price from the Government.

(2) No person shall sell or dispose of any imported formulations specified in Category I or Category II or Category III of the Third Schedule without obtaining the prior approval, of its price from the Government.

(3) Any manfacturer or importer, who desires to obtain the approval of the Government in respect of the price for any formulations referred to sub-paragraph (1) or sub-paragraph (2), shall make an application to the Government in Form 3 or Form 4, as the case may be, and the Government may, within a period of four months of the receipt of an application accord its approval, subject to such modifications as it may consider necessary:

Provided that where approval is not accorded within the said period of four months, the manufacturer or importer, as the case may be, may market the new formulation or new pack or new dosage form referred to in sub-paragraph (1) at the price declared by him in his application, issue the price list forthwith and intimate the Government accordingly:

Provided further that the Government may, if it considers necessary by order, revise the price so declared by the manufacturer or importer, as the case may be, and upon such revision the manufacturer or importer shall not sell such formulation a price exceeding the price so revised.

15. *Power to revise prices of formulations.*—Notwithstanding anything contained in this Order:—

(a) The Government may, after obtaining such information as it may consider necessary from a manufacturer or an importer, fix or revise the retail price of one or more formulations marketed by such manufacturer or importer, including a formulation not specified in any of the categories of the Third Schedule, in such manner as the pre-tax return on the sales turnover of such manufacturer or importer does not exceed the maximum pre-tax return specified in the Fifth Schedule;

(b) the Government may, if it considers necessary so to do in public interest, by order, revise the retail price of any formulation specified in any of the categories of the Third Schedule.

16. *Fixation of price under certain circumstances.* — Where any manufacturer, importer, or distributor of any bulk drug or formulation fails to furnish information as required under this order within the time specified therein, the Government may, on the basis of such information as may be available with it, by order, fix a price in respect of such bulk drug or formulation, as the case may be.

17. *Drug Prices Equalisation Account.* — (1) The Government shall maintain an Account to be known as the Drugs Prices Equalisation Account to which shall be credited—

(a) by the manufacturer, importer or distributor, as the case may be—

(i) the amount determined under sub-paragraph (2) of paragraph 7;

(ii) the excess of the common selling price or, as the case may be, pooled price over his retention price; and

(b) such other sums of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, grant from time to time.

(2) The amount credited under sub-paragraph (1) shall be spent only—

(a) for paying to the manufacturer, importer or distributor as the case may be, the shortfall between his retention price and the common selling price or, as the case may be, the pooled price for the purpose of increasing the production, or securing the equitable distribution and availability at fair prices, of drugs;

(b) for expenses incurred by the Government in discharging the functions under this paragraph.

(3) Every manufacturer, importer or distributor may, if he has any claim under clause (a) of sub paragraph (2), make an application to the Government and the Government may, in settling the claim, require the manufacturer, importer or distributor, as the case may be, to furnish such details as may be specified by it in this behalf.

(4) The Government shall maintain accounts of all moneys credited to, and expended from out of, the Drug Prices Equalisation Account and such other reports and returns as it may consider necessary relating to the said account.

18. *Certain provisions of this Order to apply to formulations not included in Category I, Category II or Category III of Third Schedule.*— The provisions of this Order, other than those contained in paragraphs 10 to 14 (both inclusive), shall apply to any formulation not specified in Category I, Category II or Category III of the Third Schedule.

19. *Furnishing of price list by manufacturer or importer to dealers.*—

(1) Every manufacturer or importer of a formulation intended for sale shall furnish to the dealers, State Drug Controllers and the Government, a price list showing the price at which the formulation is sold to a retailer (inclusive of excise duty) and the retail price of such formulation; and the list shall be furnished to the dealers in Form 5, not later than thirty days from the commencement of this Order.

Provided that where a manufacturer or an importer furnishes such a price list, it shall not be obligatory for such manufacturer or importer to furnish a fresh price list at the time of every subsequent sale to the dealer unless there is any change by way of addition, deletion or alteration in that list, in which case a supplementary price list including such additions, deletions or alterations shall be furnished.

(2) Every manufacturer or importer shall give effect to the change in prices as approved by the Government from time to time, within fifteen days from the receipt by such manufacturer or importer of the communication in this behalf from the Government.

(3) Every dealer shall display the price list at a conspicuous part of the premises where he carries on business, in a manner so as to be easily accessible to any person wishing to consult the same.

20. *Retail price to be displayed on label of container.* — Every manufacturer, importer or distributor of a formulation intended for sale shall display in indelible print mark on the label of the container of the formulation or the minimum pack thereof offered for retail sale, the maximum retail price of that formulation with the words "retail price not to exceed" preceding it, and "local taxes extra" succeeding it.

21. *Control of Sale prices of formulations specified in Third Schedule.*—No retailer shall sell any formulation specified in any of the categories in the Third Schedule to any person at a price exceeding the price specified in the current price list or the price indicated on the label of the container or pack thereof, whichever is less, plus the local taxes, if any, payable.

Explanation.—For the purposes of this paragraph, "local taxes" include sales tax and octroi actually paid by the retailer, under any law in force in a particular area.

22. *Sale of split quantities of formulations.*—No dealer shall sell loose quantity of any formulation drawn from a bottle pack of such formulation at a price which exceeds the pro-rata price of the formulation plus 5 per cent thereof :

Provided that nothing in this behalf shall apply to any formulation compounded at the premises of the dealer.

23. *Manufacturer, distributor and dealer not to refuse sale of drugs.*—Subject to the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940)—

(a) no manufacturer or distributor shall withhold from sale or refuse to sell to a dealer any drug without good and sufficient reasons ;

(b) no dealer shall withhold from sale or refuse to sell any drug available with him to a customer wanting to purchase such drug.

24. *Price to the wholesaler and retailer.*—(1) No manufacturer, importer or distributor shall sell a formulation to a wholesaler unless otherwise permitted under the provisions of this Order or any other order made thereunder, at a price higher than—

(a) the retail price minus 14 per cent thereof, in the case of ethical drugs, and

(b) the retail price minus 12 per cent thereof, in the case of non-ethical drugs.

(2) No manufacturer, importer, distributor or wholesaler shall sell a formulation to a retailer unless otherwise permitted under the provisions of this Order or any order made thereunder, at a price higher than—

(a) the retail price minus 12 per cent thereof, in the case of ethical drugs, and

(b) the retail price minus 10 per cent thereof, in the case of non-ethical drugs.

Explanation.—For the purposes of this paragraph—

(i) "ethical drugs" shall include all drugs specified in Schedule C, entries Nos. 1, 2, 3, 7, 8 and 9 of Schedule C (1), Schedule E, Schedule G, Schedule H and Schedule L, appended to the Drugs and Cosmetics Rules, 1945, made under the Drugs and Cosmetics Act, 1940 (23 of 1940); and

(ii) "non-ethical drugs" shall mean all drugs other than ethical drugs.

(3) Notwithstanding anything contained in sub-paragraphs (1) and (2), the Government may, by a general or special order, fix, in public interest, the price to the wholesaler retailer in respect of any formulation the price of which has been fixed or revised under this Order.

25. *Maintenance of records and production thereof for inspection.*—(1) Every manufacturer shall maintain in such form as may be specified by the Government, records relating to the sales turnover of individual bulk drugs manufactured by him and the sales turnover of formulations

packwise, and also such other records as may be directed from time to time by the Government and such records shall be open for inspection by the Government.

(2) Every manufacturer shall, within six months of the close of the accounting year, submit to the Government information for that year in Form 6.

(3) Every dealer or manufacturer shall maintain the cash memo or credit memo, books of account and records of purchase and sale of drugs and shall make available the said records for inspection by the Government.

26. *Power of entry, search and seizure.*—(1) Any gazetted officer of the Central Government or of a State Government authorised by a general or special order by the Central Government or, as the case may be the State Government in this behalf may, with a view to securing compliance with this Order or to satisfy himself that the provisions of this Order have been complied with—

(a) enter and search any place ;

(b) seize any drug, along with the containers, packages, or coverings in which the drug is found, in respect of which he suspects that any provision of this Order has been, is being, or is about to be, contravened and thereafter take all measures, necessary for securing production of the drug, containers, packages or coverings, so seized, in a court of law and for their safe custody pending such production ;

(c) seize any document, such as, cash memo or credit memo books, books of account and records of purchase and sale of the drugs in respect of which he suspects that any provision of this Order has been, is being, or is about to be contravened.

(2) The provisions of section 100 of the Code of Criminal procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under this Order.

27. *Power of review.*—Any person aggrieved by any notification or order under paragraphs 3, 4, 5, 6, 7, 9, 12, 13, 14, 15, or 16 may apply to the Government for a review of the notification or order within fifteen days of the date of publication of the notification in the Official Gazette, or, as the case may be, the receipt of the order by him, and the Government may make such order on the application as it may consider necessary.

28. *Power to issue directions.*—The Government may, from time to time, issue such directions, consistent with the provisions of this order to any manufacturer or importer as may be necessary to carry out the provisions of this order and such manufacturer or importer shall comply with such directions.

29. *Penalties.*—Any contravention of any of the provisions of this order shall be punishable in accordance with the provisions of the Essential Commodities Act, 1955 (10 of 1955).

30. *Interpretation.*—If any question arises as to the placing of a formulation in any of the categories of the Third Schedule, such question shall be decided by the Government.

31. *Power to exempt.*—(1) The Government may, having regard to the factors mentioned in sub-paragraph (2) and subject to such conditions, if any as it may specify, by order in the Official Gazette, exempt any drug manufacturing unit or a class of such units from the operation of all or any of the provisions of this order and may, as often as may be, revoke or modify such order.

(2) While granting exemption under sub-paragraph (1) the Government shall have regard to all or any of the following factors relating to the drug manufacturing unit or a class of such units, namely:—

(a) number of workers employed ;

(b) amount of capital invested ;

(c) range and type of products manufactured ;

(d) sales turnover.

32. *Delegation of powers.*—The Government may, by notification in the Official Gazette, direct that all or any of the powers conferred up on it by this order, other than those contained in paragraphs 27, 28, 30 and 31 shall, subject to such restrictions, exceptions and conditions, if any, as may be specified, in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government ; or

(b) such State Government or such officer or authority subordinate to the State Government, as may be specified in the direction.

33. *Repeal.*—As from the commencement of this Order, the Drugs (Prices Control) Order, 1970, shall cease to operate except as respects things done or omitted to be done before such cesser.

No. 5(3)/78—Drug II

(Sd.)

M. S. PANDIT,

Deputy Secretary to the Government of India.

THE FIRST SCHEDULE

[*See* Paragraphs 3, 4, 6 (1), 7(1)]

BULK DRUGS

List of Bulk Drugs (including salts, esters and derivatives, if any) used in Cat. I & II formulations appearing in Third Schedule

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I *Bulk Drugs used in Category I Formulations*

Sl. No.	Name of the Bulk Drug
1	Insulin
2	Iodo-Chlorohydroxyquinoline
3	Isonicotinic Acid Hydrazide
4	PAS Acid
5	PAS Sodium
6	Potassium Penicillin G.
7	Sodium Penicillin G.
8	Procaine penicillin
9	Penicillin Potassium V (Phenoxy Methyl Penicillin)
10	Streptomycin Sulphate
11	Thiacetazone
12	Dapsone
13	Aspirin
14	Pethidine
15	Benzathine Penicillin
16	Calcium PAS
17	Pertussis Toxoid
18	Diptheria Toxoid
19	Tetanus Toxoid
20	Digoxin
21	Hydrochlorthiazide
22	Di-Iodohydroxyquinoline
23	Morphine Sulphate

II *Bulk Drugs Used in Category II Formulation.*

Sl. No.	Name of the Bulk Drug
1	Amodiaquin
2	Chloramphenicol
3	Chloroquine
4	Prednisolone
5	Tetracycline
6	Tolbutamide
7	Sulphadimidine
8	Diethylcarbamazine Citrate

9 Analgin
10 Phenobarbitone
11 Phthalyl Sulphathiazole
12 Calcium B PAS
13 Piperazine
14 Frusemide
15 Oxytetracycline
16 Primaquin
17 Glyceryl Trinitrate
18 Quinine
19 Pyrolidine Methyl Tetracycline
20 Demethyl Chlorotetracycline

THE SECOND SCHEDULE

[*See* Paragraphs 3, 4, 6(1), 7(1)]

List of Bulk Drugs (including salts, esters and derivatives, if any) used in Category III formulations appearing in Third Schedule

I Anaesthetics General and Local

1 Benzocaine
2 Chloroform
3 Cocaine
4 Ether
5 Ethyl Chloride
6 Halothane
7 Trichloroethylene
8 Procaine
9 Xylocaine (Lignocaine)
10 Marcaine
11 Thiopentone Sodium
12 Ketamine

II Analgesics and Antipyretics :

1 Amidopyrin
2 Baralgan Ketone
3 Codiene
4 Dextropropoxyphene
5 Fentanyl Citrate
6 Methyl Salicylate
7 Osadrine
8 Paracetamol
9 Pentazocaine
10 Phenacetin
11 Propoxy Phenazone
12 Phenylisopropylpyrazolone

III Anthelmintics:

1 Bephenium hydroxy naphthoate
2 Dithiazamin Iodide
3 Pyrivinium
4 Tetramisol
5 Thiabendazole
6 Pyrantel

IV Antiameobics :

1 Broxyquinoline
2 Brobenzoxalidine
3 Bismuth Glycollylarsanilate
4 Dehydroemetine
5 Diloxamide
6 Emetine
7 Furazolidone
8 Chlorophenoxamide (Clefamide)
9 Metronidazole
10 Phanquone

V Anti-asthmatic and Enteric Antiseptics :

1 Ephedrine
2 Pseudo-Ephedrine
3 Salbutamol
4 Aminophylline
5 Theophylline
6 Papaverine
7 Ajmalicin

VI Antibiotics :

1 Amphotericin
2 Bacitracin
3 Carbenicillin
4 Cloxacillin
5 Cephalexin
6 Cycloserine
7 Cephaloridine
8 Doxycycline
9 Framycetin
10 Gentamycin
11 Gramicidin
12 Griseofulvin
13 Kanamycin
14 Lincomycin
15 Methicillin
16 Nystatin
17 Neomycin
18 Oxacillin

19 Oleandomycin
20 Paranmomycin
21 Polymixin
22 Rifampicin
23 Spiramycin
24 Viomycin
25 Lymecycline
26 Colistin
27 Tyrothricin
28 Ampicillin
29 Erythromycin

VII Anti-Cancer :

1 L-Asparaginase
2 Busulphan
3 Chlorambucil
4 Cyclophosphamide
5 Cerubidin (Daunorubicin)
6 5 Fluro uracil
7 6-Mercaptopurine
8 Thiotepa (NNN-Triethylenethiophos-phoramide)
9 Mitomycin
10 Adriamycin
11 Bleomycin
12 Azathioprine
13 Melphalan
14 Vinblastin
15 Vincrastin

VIII Anticoagulants :

1 Warfarin (3-(a-Acetonylbenzyl)-4-hydroxy-coumarin)
2 Heparin
3 Ethyl Biscoumacetate
4 Pheniyridione
5 Heparinoid substance isolated or derived from Lung Tissue

IX Anticonvulsants :

1 Ethosuximide
2 Diphenyl Hydantoin
3 Primidone

X Antidiabetics :

1 Carbutamide
2 Chlorpropamide
3 Glybenclamide
4 Glipizide
5 Metformin
6 Phenformin

XI Antihistaminics :

1 Antazoline
2 Bucilizine
3 Cyclizine
4 Carbinoxamine
5 Chlorocyclizine
6 Chlorpheniramine
7 Clemisole
8 Dimenhydrinate
9 Dimethindone
10 Diphenhydramine
11 Diphenyl Pyraline
12 Diphenyl-Piperadine-Propane
13 Hydroxyzine
14 Mepyramine
15 Methdilazine
16 Methapyrilene
17 Meclozine
18 Pheniramine
19 Halopyramine
20 Promethazine
21 N-Phenyl-N-Benzyl-4-Amino-1-Methyl-Piperidine
22 Pyrolidylethyl Phenyl Benzyl-Amine
23 Isothiopendyl
24 Phenindamine
25 Triprolidine
26 Triplenamine
27 Thenalidine
28 Trimeprazine
29 Cyproheptadine
30 Dexachloropheniramine
31 Bamipieum (Soventol)

XII Antileprotic :

Clofazamine

XIII Antimalarial :

1 Mepacrine
2 Pyrimethamine

XIV Antirheumatic :

1 Ibuprofen
2 Indomethacin
3 Oxy-Phenylbutazone
4 Phenyl Butazone
5 Sodium Salicylate

XV Antiseptics :

1 Chloroxylenols
2 Chlorocresols
3 Hexyl-Resorcinol
4 Creosote
5 Hydrogen Peroxide
6 Iodine
7 Cetrimide
8 Chlorhexidine

XVI Antispasmodics :

1 Atropine Methylnitrate
2 Ethylmorphine
3 Belladonna Alkaloids
4 Hyoscine

XVII Antituberecular :

1 Ethambutol
2 Ethionamide
3 Pyrazinamide
4 Morphazinamide
5 Prothionamide

XVIII Cardiovascular :

(i) *Antihypertensive :*

1 Rauwolfia Alkaloids
2 Guanethidine Sulphate
3 Methyl Dopa
4 Pentolinium Tartarate
5 Dihydroargocrystine
6 Cloposamide
7 Clonidine
8 Dihydralazine

(ii) *Peripheral Vasodilators and Coronary Vasodilators :*

1 Histamine
2 Isoxsuprine
3 Nylidrine
4 Penta Erythritol Tetranitrate
5 Prenylamine
6 Sorbide Nitrate
7 Dipyridamol
8 Amyl Nitrite
9 Mannitol Hexanitrate

(iii) *Cardiac Glycosides :*

1 Digitoxin
2 Lanatosides
3 Ouabain

(*iv*) *Others*

1 Nikethamide
2 Clofibrate
3 Xanthinol Nicotinate
4 Carbachol (40)
5 Propranolol
6 Quinidine
7 Procainamide
8 Methacholine

XIX Corticosteroids :

1 Dexamethasone
2 Betamethasone
3 Triamcinolone
4 Prednisone
5. Hydrocortisone
6. Cortisone
7. A. C. T. H. (Corticotropin)

XX **Diuretics:**

1. Benzthiazide
2. Bendrofluazide
3. Chlorthalidone
4. Polythiazide
5. Spironolactone
6. Triamberene
7. Mersalyl Acid
8. Acetazolamide
9. Ethoxzolamide
10. Chlorothiazide
11. Cyclopenthiazide
12. Hyroflumethiazide
13. Ethacrynic acid

XXI **Drugs used for Calcium therapy:**

1. Calcium Cluconate
2. Calcium Levulinate
3. Calcium Lactate
4. Calcium Lactobionate

XXII **Haematinics:**

1. Ferrous Gluconate
2. Ferrous Fumerate
3. Ferrous Sulphate
4. Iron-Dextran Complex
5. Liver Extract
6. Ferric Ammonium Citrate
7. Iron-Sorbitol Complex

XXIII **Oral Contraceptives:**

1. Oestradiol and its derivatives
2. Lynestrenol
3. Ethisterone
4. Mestranol
5. Nor-ethistrone Acetate
6. Dimethisterone
7. Norgestrol
8. Megesterol Acetate
9. Ethynodiol Diacetate
10. Norethynodrel

XXIV **Ophthalmolgical Preparations:**

1. Sulphacetamide
2. Boric Acid
3 Atropine
4. Pilocarpine
5. Phenylephrine
6. Homatropine
7. Physostigmine Salicylate

XXV **Oxytocics :**

1. Ergot Alkaloids
2. Oxytocin

XXVI **Plasma Expanders and Transfusion Solutions**:

1. Dextran
2. Polyvinyl Pyrrolidone
3. Dextrose Andydrous
4. Sodium Chloride
5. Sodium Lactate
6. Pot. Chloride

XXVII **Sera and Vaccines:**

1. Antirabic Vaccine
2. Yellow Fever Vaccine
3. Cholera Vaccine
4. Tetanus Antitoxin
5. Diphtheria antitoxin
6. Gasgangrene Antitoxin
7. Antirabic Serum
8. Antivenom Serum
9. Cholera Vaccine
10. B. C. G. Vaccine
11. Typhoid Vaccine
12. Polio Myclitics Vaccine (oral)
13. TAB Vaccine

XXVIII **Urinary:**

1. Nitrofurantoin
2. Nalidixic Acid
3. Methenamine

XXIX **Vitamins:**

1. Vitamin-A
2. Vitamin-B1
3. Vitamin-B2
4. Vitamin-B6
5. Vitamin-B12 (Cyano and Hydroxy)
6. Vitamin-C
7. Vitamin-D3
8. Vitamin-K
9. Vitamin-P
10. Vitamin-E
11. Niacin and Niacinamide
12. Panthenols and Pento-thenates
13. Folic Acid

XXX **Antacids:**

1. Aluminium Hydroxide
2. Magnesium carbonate
3. Magnesium Trisilicate
4. Magnesium Hydroxide
5. Sodium Bicarbonate
6. Calcium Carbonate

XXXI **Antidiarrhoeals:**

1. Diphenoxylate
2. Sulphaguanidine
3. Kaolin
4. Pectin

XXXII **Antigout drngs:**

1. Allopurinol
2. Probenecid

XXXIII **Disinfectants:**

Cresols

XXXIV **Antitussives and Expectorants:**

1. Chlophodional
2. Dextromethorphan
3. Guiacol Glyceryl Ether
4. Noscapine
5. Oxeladine
6. Piperazethate
7. Pholcodeine
8. Menthol

XXXV **Dental products other than those containing local anaesthetics:**

1. Sodium Fluoride
2. Stannous Fluoride

XXXVI **Dermatological preparations not containing antibiotics, sulphonamides and corticosteroids:**

1. Sulphur sublimed
2. Methoxsalen
3. Ichthammol
4. Ammoniated mercury
5. Resorcinol
6. Chrysarobin
7. Dithranol
8. Salicylic acid
9. Benzoic acid
10. Zinc oxide
11. Benzyl benzoate
12. Gamma benzenehexachloride
13. Calamine
14. Chlorphenesin

XXXVII **Parasympathomimetics:**

1. Methacholine
2. Carbachol
3. Neostigmine
4. Physostigmine
5. Acetyl Choline Chloride
6. Pyridostigmine

XXXVIII **Other Anti-infectives:**

1. Trimethoprim
2. Sulphamethoxazole
3. Sulphamoxole
4. Sulphadimethoxin
5. Sulphaphenazole
6. Sulphamethoxypyridazine
7. Sulphasomidine
8. Sulphadiazine
9. Sulphafurazole
10. Succinyl Sulphathiazole
11. Tolnaftate

THE THIRD SCHEDULE

(See paragraphs 2 (j), 11, 12, 13, 14, 15, 18, 21 and 30)
List of Category I, Category II and Category III Formulations

Category I Formulations

1. Aspirin Tablets
2. Digoxin Tablets
3. DDS Tablets
4. DPT Vaccines
5. Insulin Injection (all sorts)
6. Hydro-Chlorothiazide Tablets
7. Iodo-chloro-hydroxy-quinoline tablets and Di-iodo-hydro-oxy-quinoline tablets
8. INH tablets
9. INH plus Thiacetazone tablets
10. Morphine sulphate injection
11. Penicillin injection including procaine Penicillin G and Benzathine Penicillin (all strengths)
12. PAS and its salts, granules and tablets
13. Phenoxymethyl penicillin tablets
14. Streptomycin injection all strengths plus combination with penicillin
15. Pethidine Injection

Categroy II Formulations

1. Analgin Tablets
2. Amodiaquin Tablets
3. Chloramphenicol oral preparations including chloramphenieol palmitate, suspension and Syrup and chloramphenical Sodium Succinate injectable
4. Chloramphenicol in combination with Streptomycin
5. Chloroquin salts
6. Primaquin Tablets
7. Calcium Benzoyl PAS Tablets
8. Diethyl carbamazine citrate Tablets
9. Fursemide tablets, injection
10. Glycaryl Trinitrate tablets
11. Phthalyl Sulphathiazole Tablets
12. Prednisolone Tablets and injection
13. Phenobarbitone Tablets
14. Piperazine and its salts—tablets, syrup
15. Sulphadimidine tablets
16. Tetracyclines, capsules, tablets, syrup, injection, eye ointment (including Oxy-Demethyl-Chloro and Pyrrolidine Methyl Tetracyclines)

17. Tolbutamide tablets
18. Tetanus Toxoid Injection
19. Diphtheria tetanus Toxoid Injection
20. Quinine Salts, tablets and injection

Category III Formulation

Formulations based on drugs [falling under the following Categories excluding the formulations included in Categories I and II

1. Anaesthatics, General and Local
2. Analgesics and Antipyretics
3. Antheliminics
4. Antiamoebics
5. Anti asthmetic drugs and Enteric Antiseptics
6. Antibiotics including semisynthetic antibiotics
7. Anticancer Drugs
8. Anticoagulants
9. Antyconvulsants
10. Antidiabatics
11. Antihistaminics
12. Antileprotic Drugs
13. Antimalarial Drugs
14. Antirheumatic and Antigout drugs
15. Antiseptics
16. Antispasmodics
17. Antitubercular Drugs
18. Cardiovascular Drugs
19. Corticosteroids
20. Diuretics
21. Drugs used for Calcium therapy
22. Haematinics
23. Oral Contraceptives
24. Opthalmological preparations
25. Oxytocics
26. Plasma Expanders and Transfusion Solutions
27. Sera and Vaccines
28. Vitamins
29. Urinary drugs
30. Antacids
31. Antidiarrhoeals
32. Disinfectants
33. Antitussives and Expectorants
34. Dental products other than those containing local anaesthetics
35. Dermatological preparations not containing antibiotics sulphonamides and Corticosteroids
36. Otic preparations not based on antibiotics
37. Paraysmpathomimetics

THE FOURTH SCHEDULE

FORMS

Form—I (To be submitted in Duplicate)
[See paragraphs 2(e) 3(4) 5 and 8(1)]

Form of application for fixation or revision of prices of bulk drugs

1. Name of the Bulk Drug
2. Name of the Manufacturer
3. Address of the Registered/Head Office of the Manufacturer
4. Address of the Factory
5. Licensed capacity :
   (a) Industrial Licence/SSI Registration No.
   (b) Date of issue of the Licence/ Date of Registration
   (c) Production capacity. Licensed, Tonnes/Kgs/Litres/etc.
6. Installed capacity :
   (a) No .of shifts ; One/Two/Three
   (b) No. of operating days per year
   (c) Max. production per shift : Tonnes/Kgs/Litres/etc.
   (d) Date of commissioning
   (e) Installed capacities per annum
7. Date of commencement of commercial production :
8. Actual production achieved during the last accounting year (preferably month-wise) and also monthly production during the current year ;............Tonnes/Kgs/Litres/etc.
9. Brief note on the manufacturing process adopted by you indicating all stages including recovery of bye-products, if any, solvents etc. and stage-wise overall yields for each drug.
10. Average hourly rate of production for each of the bulk drug since commencement of commercial production.
11. Maximum hourly rate of production achievable.
12. Estimated production of the bulk during the next three years.
13. If the production is proposed to be captively consumed for manufacture of the formulation, please furnish the quantity to be so consumed out of the production given against Sl. No. 8 and Sl. No. 12.
14. Capital employed for the manufacture of the bulk drug(s) :
   (a) Net fixed assets (after depreciation) ....
   (b) Working Capital ....
   (c) Total ....
   (In the case of multi-purpose plant the capital employed as above and the share to be allocated to the bulk drug/intermediate under consideration to be given).

15. Please state how the above capital employed is financed by net worth and borrowings.
16. Please state the average rate of interest paid by you on your borrowings, supported by figures.
17. Please furnish latest c i.f. price of the bulk drug if the same had been imported or is being imported by you or by any other agency known to you.
18. Please furnish the cost of production of the bulk drug as per Pro forma (attached) duly certified by a Practising Cost Accountant/Chartered Accountant.

Notes :

(1) Any hold up affecting production to be shown clearly against Serial No. 8.

(2) In case the same plant facilities are used for production of more than one product the information as per Serial No. 6 may be given productwise.

(3) Please furnish a copy each of audited Balance Sheet and Profit and Loss Account for the last three years.

PRO FORMA

(See Item No. 18)

I. Name of the Bulk Drug

II. (a) Production in Tonnes/Kgs./Litres/etc.
(b) Sales in Tonnes/Kgs./Litres/etc.
(c) Despatches in Tonnes/Kgs./Litres/etc.

III. Period for which the cost data is given :

Particulars	Norms of consumption as per project report of know-how or suppliers' guaranteed norms or the norms developed by you as standards	Unit	Actual Consumption during the period	Rate	Amount	Per Unit of production Qty.	Per Unit of production Cost Rs.
1. Raw materials :							
(*a*) *Imported*							
1.							
2.							
3.							

(*b*) *Indigenous*

1.
2.
3.

Total raw material cost
Less Recoveries of Solvents
Net Raw material cost

2. Utilities
   (a) Power
   (b) Water
   (c) Fuel Oil
   (d) Other services (to be specified)
3. Conversion cost :
   (a) Salaries and Wages
   (b) Operating supplies or consumable stores.
   (c) Repairs and Maintenance
   (d) Other factory overheads
   (e) Administration overheads.
   (f) Depreciation
4. Total cost of production
5. Interest on Borrowings
6. Minimum Bonus

   Total
7. Packing :
   (a) Materials
   (b) Other expenses
8. Selling Expenses
9. Transport Charges
10. Transit Insurance Charges
11. Total cost of sales
12. Profit margin (Basis of calculations to be given)
13. Selling Price (11+12)
14. Existing price or Notional price or Declared price

NOTES

(i) Items of expenses to be excluded from costs :
   (a) Bonus in excess of statutory minimum
   (b) Bad Debts & Provisions
   (c) Donations and charities
   (d) Loss/Gain on sale of assets
   (e) Brokerage and commission
   (f) Expenses not recognised by Income-tax authorities (salary, perquisites, advertisements etc.)
   (g) Adjustments relating to previous years.

(ii) In the case of imported raw materials please furnish separately the c.i.f. price, duty of customs and other charges totalling to the landed cost adopted against Sl. No. 1 (a)

(iii) Cost of intermediates manufactured for captive use should be on the basis of factory cost of production inclusive of administration overheads and shown separately against Sl. No. 1 (b). A separate cost-sheet in the same pro forma may please be appended

(iv) Cost of generated utilities like power, steam, etc. should be separately given furnishing the details of purchased utilities consumed, rate and cost with other expenses incurred on generation, with ref. to Sl. No. 2

(v) Details in respect of factory overheads, administration overheads and selling expenses should be furnished, against Sl. No. 3 (d) (e) and Sl. No. 8

(vi) The basis of depreciation adopted in your financial accounts may please be given, against Sl. No. 3 (f)

(vii) Please indicate whether the existing price is notional, declared or approved against Sl. No. 14.

TO BE CERTIFIED BY COST ACCOUNTANT / CHARTERED ACCOUNTANT

FORM 2

(To be submitted in Duplicate by the importers of drugs appearing in the First and Second Schedules for each imported consignment)

[See Paragraphs 2 (e) and 6]

1. Name of the Company
2. Address of Registered/Head Office/Factory, if any :
3. Reference to permission given by competent authority for import of the bulk drugs.
4. Name of the drug
5. Specification of the drug
6. Country from which imported
7. Quantity imported Tonnes/Kgs/Litres/etc.
8. c.i.f. value in foreign currency

	Total Rs.	Per unit Rs.
	....	....
(a) ci. value actually paid in Rs. (Not to include bank commission, interest etc.)	....	....
(b) Duty of customs actually paid	....	....
(c) Clearing charges actually incurred with details	....	....
(d) Landed cost (a + b + c)	....	....
(e) Importer's margin in case of those who import for sales only	....	....
(f) Proposed selling Price/ Notional Price	....	....
(g) Existing Selling Price/ Notional Price, if any.	....	....

Note:—The figures given here to be certified by a practising Cost Accountant/Chartered Accountant.

FORM 3

[*See* Paragraphs 2 (e), 12, 13 and 14]

(Form of application for manufacturers seeking approval or revision of price of formulations—to be submitted in seven copies)

1. Name of the Manufacturer
2. Address of Registered/Head Office
3. Address of the Factory
4. Name of the formulation .
5. Category of formulation and therapeutic group to which it belongs as per Third Schedule of Drugs (Prices Control) Order, 1979.
6. Composition as approved by Drug Control Authorities.

7. Industrial Licence/Small Scale Industrial Unit Registration No. and Date

8. Drug Control Authorities Permission No. and Date

9. Type of formulation
Plain Tablets/coated tablets/soft/hard/printed/capsules without/with/ sealing band/Sterile/Non-Sterile/Liquids/powder/Ointment/Cream etc.

10. Type of Packing
Aluminium/Paper/Cellophane/Strips/Vials/Ampoules/bottles / tins/Jars/ With or Without dropper/Cutting blades/catch cover etc.

11. Size of Packs:
10's/100's etc./1 ml/2 ml/10 ml etc./5 gms/10 gms etc.

12. No. of Packs sold during the last accounting year

13. Value of sales effected during the last accounting year including duty of excise and its percentage to total sales of formulations excluding duty of excise [(11) and (12) above applicable in case of revision application only]

14. Break-up of Retail price	Existing (if any, Rs/Pack approved on......)	Now claimed Rs/Pack
	....	
(a) Material Cost [M.C. as per S. No. 15(d)]		
(b) Conversion Cost (C.C. as per norms)		
(c) Packing Material Costs (P.M.) (As per S. No. 16 or as per norms)		
(d) Packing charges (P.C.) (as per norms)	....	
(c) Ex-factory cost (a to d)		
(f) Mark-up (M.U.)....% on (e) above		
(g) Excise Duty		
(h) Retail Price (R.P.) (e+f+g)	....	
	....	

15. Material Cost :

(a) Batch Size :
Nos./Litres/Kgs/etc.

(b) No. of packs actually obtained from the batch size as in (a) above

(c) No. of Packs that can be theoretically obtained from the batch size as in (a) above

(d) Material Cost for the batch size as in (a) above:—

Sl. No.	Name of Material	Unit	Previous Rate/Unit, if any (Date) Rs.	Current Rate/Unit (Date) Rs.	Theoretical Qty. required per batch	over age if any	Total Qty. required	Cost for the batch (5x8) Rs.
1	2	3	4	5	6	7	8	9
	Imported							
1								
2								
3								
	etc.							
	Indigenous							
1								
2								
3								
	etc.							

Total :

Add : Process loss as per Norms ....

Total Material Cost ....

....

Total Material Cost

Material Cost per Packs ....

Theoretical No. of Packs

16. Packing Materials Cost :

Batch Size:........Packs of ....Tabs/
gms/etc. etc., each

Sl. No.	Name of packing materials	Unit	Rate per unit Rs.		Quantity required per batch Nos/Kgs/etc.	Value of packing materials per batch Rs.
			Previous (Date)	Present (Date)		
1	2	3	4	5	6	7
1						
2						
3						
	etc.					

Total

Add : Process Loss as per norms

............% of above

Total packing material cost ....

Packing Material cost per pack = Total packing Material cost / No. of packs as per batch size

Note : The figures in this form to be certified by a practising Cost Accountant/Chartered Accountant.

FORM 4

(To be submitted in seven copies)

(See paragraphs 2 (e), 12, 13 and 14)

Form of application to be submitted for price approval of formulation imported in finished form

1. Name of the company
2. Address of the Registered/Head Office/Factory, if any.
3. Reference to Permission, if any, given by drug control authorities for import of the item.
4. Name of the imported formulation
5. Type of formulation :
   Capsule, Tablets/etc.
6. Composition of the Formulation
7. Type of Packs :
   Strip/vial/Ampoule/ete.
8. Pack size :
   S 10's/etc./10ml/etc. 5 gms./etc.
9. Country from which imported and Date of Import

	Total Rs.	Per pack Rs.
10. Quantity/No. of Packs imported		
11. cif value in Foreign Currency (Not to include bank commission, interest, etc.)		
12. cif value in Rs. actually paid (Not to include bank commission, interest, etc.)		
13. Duty of customs, if any, actually paid		
14. Clearing Charges (with details) aetually incurred	....	
15. Landed Cost (12+13+14)		
16. Packing Material, if any as per norms	Applicable in case of re-packing	
17. Packing Charges, if any, as per norms		
18. Landed cost including re-packing cost. if any (15 to 17)		
19. Mark up claimed......% of S.No. 18		
20. Duty of excise, if any		....
21. Retail Price claimed (18 to 20)		
		....
		....

22. (a) Existing Retail price, if any
    (b) No. of Packs sold during the last accounting year, if any
    (c) Value of sales excluding duty of excise effected during the last accounting year, if any

Note : Figures given here to be certified by a practising Cost Accountant/ Chartered Accountant.

FORM 5

(See paragraphs 2 (e) and 19)

(Form of Price List)

Sl. No.	Name of the formulation and its form	Composition (main ingredients to be given)	Specification of the pack		Duty of excise		Price to the retailer (inclusive of excise duty) Rs.	Retail price (inclusive of excise duty) Rs.
			Type (strip/ bottle etc-)	Size (10/100/ etc. 1 ml/etc. 1 gm/etc.	Rate %	Amount Rs.		
1	2	3	4	5	6	7	8	9

Note : Information as per this Form shall be given Categorywise as specified in the Third Schedule for all the items including the formulations which are not price-controlled.

FORM 6

Yearly Information

(See paragraph 2(e) and 25)

1. Name of the Manufacturer
2. Address of the Registered/Head office/Factory
3. Accounting period for which information is given
4. Turn over of bulk drugs:—

Name of the bulk drugs	Quantity		Sales Value (excluding duty of excise, if any)	
	Consumed	Sold	Consumed	Sold
	Kg./Ltrs. etc.	Kg./Ltrs. etc.	Rs.	Rs.
(I) **Drugs listed in First Schedule**				
(a) *Imported*:				
1				
2				
3 etc.				
(b) *Indigenous:*				
1				
2				
3 etc.				
(II) **Drugs listed in Second Schedule**				
(a) *Imported:*				
1				
2				
3 etc.				
(b) *Indigenous:*				
1				
2				
3 etc.				
(III) **Other bulk drugs:**				
1				
2				
3				
Total				

5. **Turnover of Formolations :**

Name	Pack Size	No. of Packs	Sales Value excluding duty of excise Rs.
A. Own Formulations :			
(*i*) *Category I* :			
1			
2			
3 etc.			
(*ii*) *Category II* :			
1			
2			
3 etc.			
(*iii*) *Category III* :			
1			
2			
3 etc.			
(*iv*) *Others*			
1			
2			
3 etc.			
Sub total ( )			
B. Purchased Formulations :			
(a) **Imported :**			
(*i*) *Category I* :			
1			
2			
3 etc.			
(*ii*) *Category II* :			
1			
2			
3 etc.			
(*iii*) *Category III* :			
1			
2			
3 etc.			
(*iv*) *Others*			
1			
2			
3 etc.			
Sub total (Ba)			
(b) **Indigenous** : (Category-wise as indicated above)			
Sub total (Bb)			
C. Export Sales :			
Total (A+B+C)			

6 **Allocation of sales and expenses as shown in the audited Profit and Loss Account:—**

(In Rupees)

Sl. No.	Particulars	Total as per audited Profit and Loss Account	Allocation to Bulk Drugs	Allocation to Formulations					Other activities (if any)	Basis of allocation
				Own manufacture	Impor-ted	Export	Indigenou ly purchased	Sub-total (5 to 8)		
1	2	3	4	5	6	7	8	9	10	11
	A. Income									
1.	Sales Income (excluding duty of excise and other taxes)									
2.	Cash subsidy (if any)									
3.	Other income									
	Total (1 to 3)									
	B. Expenses									
4.	Raw materals consumed									
5.	Packing materials consumed									
6.	Power and fuel									
7.	Salaries and wages									
8.	Stores and spares									
9.	Repairs and maintenance									

1	2	3	4	5	6	7	8	9	10	11
10	Insurance									
11.	Depreciation									
12.	Royalty									
13.	Interest									
14.	Head office expenses									
15.	Dealer's commission and discount									
6.	Research and development expenses									
17.	Other expenses									
	Total (4 to 17)									
C.	Profit before tax (A—B)									
D.	Profit before tax as a % of sales turnover $\frac{C}{A_1} \times 100$									

Note:—(i) The basis of allocation should be reasonable and followed consistently.

(ii) The figures against Sl. No. 1 under Cols. 4 to 9 should tally with the figures under Sl. Nos. 4 and 5 respectively of this Form.

(iii) This Form should be certified by the Company's Auditors.

THE FIFTH SCHEDULE

(See paragraph 15)

Statement showing maximum pre-tax return on sales turnover of manufacturers or importers of formulations.

CATEGORY 'A'—

Large units with turnover exceeding Rs. 6 crores per annum	Maximum pre-tax return on sales turnover
(a) having no basic drug manufacturing activity nor any research activity	8%
(b) having basic drug manufacturing activity at 5% or more of turnover but no research activity	9%
(c) having basic drug manufacturing activity at 5% or more of the turnover and engaged in approved research and development work relating to new drugs	10%

CATEGORY 'B'—

Medium size units with turnover between Rs. 1 crore to Rs. 6 crores per annum

(a) having no basic drug manufacturing activity nor any research activity	9%
(b) having basic drug manufacturing activity at 5% or more of turnover but no research activity	11%
(c) having basic drug manufacturing activity at 5% or more of turnover and engaged in approved research and development work relating to new drugs	13%

CATEGORY 'C'—

Other units with turnover of less than Rs. 1 crore per annum.

(a) having only formulation activity	12%
(b) having basic drug manufacturing activity at 5% or more of turnover.	13%

[5 (3)/78/Drug II]

(Sd.)

(M.S. PANDIT)

Deputy Secretary to the Government of India.

G. 1063.

Kerala Gazette No. 3 dated 18th January 1983.
PART I Section iv

GOVERNMENT OF KERALA

Irrigation and Rehabilitation (General and Planning) Department

NOTIFICATION

No. 8955/P2/80/I&R. *Dated, Trivandrum, 7th December* 1982.

S. R. O. No. 42/83.—In exercise of the powers conferred by section 66 of the Travancore Public Canals and Public Ferries Act, 1096 (6 of 1096) the Government of Kerala hereby make the following Rules further to amend the Travancore Public Canals and Public Ferries Rules, 1100 M.E. namely:—

Rules

1. These rules may be called the Travancore Public Canals and Public Ferries (Amendment) Rules, 1981.

2. In rule 2 of the Travancore Public Canals and Public Ferries Rules, 1100 M. E. under the heading "(a) Wharves", after item (110), the following item shall be inserted, namely:—

"(111) Jetty in front of St. Antony's Hospital, Kunnamkary".

Explanatory Note

(This does not form part of the notification, but is intended to bring out the main purport).

As the private jetty in front of St. Antony's Hospital, Kunnamkary is in a dilpidated condition and as it is in use by the public of the locality. construction of a jetty is a real necessity for which the above jetty has to be declared as an approved Government jetty under Travancore Public Canals and Public Ferries Rules.

The present amendment to the rules is to achieve the above purpose.

എസ്. ആർ. ഒ. നമ്പർ 42/83—1096-ലെ തിരുവിതാംകൂർ പൊതു തോടുകളും പൊതു കടത്തുകളും സംബന്ധിച്ച ആക്റ്റിലെ (1096-ലെ 6) 66-ാം വകുപ്പുപ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ കൊല്ലവർഷം 1100-ാമാണ്ടിലെ പൊതുതോടുകളും പൊതുകടത്തുകളും സംബന്ധിച്ച തിരുവിതാംകൂർ ചട്ടങ്ങൾക്ക് താഴെ പറയുന്ന കൂടുതൽ ഭേദഗതി ഇതിനാൽ വരുത്തുന്നു ;

അതായത്:—

ചട്ടങ്ങൾ

1. ഈ ചട്ടങ്ങൾക്ക് പൊതു തോടുകളും പൊതുകടത്തുകളും സംബന്ധിച്ച 1982-ലെ തിരുവിതാംകൂർ (ഭേദഗതി) ചട്ടങ്ങൾ എന്നു പേർ പറയാം.

G.1840

2. കൊല്ലവർഷം 1100-ാ മാണ്ടിലെ പൊതുതോടുകളും പൊതുകടത്തുകളും സംബന്ധിച്ച തിരുവിതാംകൂർ ചട്ടങ്ങളിലെ 2-ാം ചട്ടത്തിൽ "(എ) കടവ്" എന്ന ശീർഷകത്തിൽ (110)-ാം ഇനത്തിനുശേഷം താഴെപ്പറയുന്ന ഇനം ചേർക്കേണ്ടതാണ്; അതായത് :—

"(111) കുന്നംകരി സെൻറ് ആൻറണീസ് ആശുപത്രിയ്ക്ക് മുമ്പിലുള്ള ജട്ടി"

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിൻെറ ഭാഗമല്ല. എന്നാൽ അതിൻെറ പൊതു ഉദ്ദേശം വ്യക്തമാക്കുന്നതിനുദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്). കുന്നംകരി സെൻറ് ആൻറണീസ് ആശുപത്രിയുടെ മുമ്പിലുള്ള സ്വകാര്യജട്ടി ഇടിഞ്ഞു പൊളിഞ്ഞു കിടക്കുന്നതിനാലും, അത് അവിടത്തെ തദ്ദേശവാസികളായ പൊതുജനങ്ങൾ ഉപയോഗിച്ചു വരുന്നതിനാലും, ഒരു ജട്ടി നിർമ്മിക്കുന്നതിന് മുകളിൽ പറഞ്ഞ ജട്ടിയെ തിരുവിതാംകൂർ പൊതു കനാലുകളും പൊതു കടത്തുകളും ചട്ടങ്ങൾപ്രകാരം ഒരു അംഗീകൃത ഗവൺമെൻറ് ജട്ടിയായി പ്രഖ്യാപിക്കേണ്ടിയിരിക്കുന്നു.

ചട്ടങ്ങളിലെ ഇപ്പോഴുള്ള ഭേദഗതി മേൽപ്പറഞ്ഞ ആവശ്യത്തിനുള്ളതാണ്.

By order of the Governor,
K. MALATHY,
Joint Secretary to Goverment.

GOVERNMENT OF KERALA

Higher Education (E) Department

NOTIFICATION

G.O (Ms.) No. 180/82/H. Edn. *Dated, Trivandrum,* 22*nd November* 1982.

S R.O. No 43 83.—In exercise of the powers confe red by subsection (1) of secti on 4 of the Charitable Endowmen s Act, 1890 (Central Act 6 of 1890). The Government of Kerala hereby order that the property specified in column (2) of the Schedule appended herewith belonging to the Endowment mentioned in column (1) thereof, shall be vested with the Treasurer of Charitable Endowments, Kerala, and under subsections (1) and (3) of section 5 of the said Act, the Government of Kerala settle the following Scheme for the administration of the said property, the same having been previously published under rule 3 of the Charitable Endowments (Kerala) Rules, 1966, and appoint the date of publication of the notification to be the date on which the said Scheme shall come into operation, namely:—

SCHEME

1. This Endowment may be called "Sri M. Kochu. Krishna Pillai, Memorial prize Endowment Fund".

2. The corpus of the fund shall be consist of Rs. 1,000 (Rupees one thousand only) and shall be vested with tne Treasurers of Charitable Endowments Kerala.

3. The corpus of the Endowment shall be invested in any long term securities of the Government of India or the Government f Kerala or in any of the securities approved by the Government of Kerala.

4. The Headmaster/Headmistress of the A. V. Government High School for Boys, Thazhava, Quilon District shall be the Administrator of the Fund.

5. The annual interest accruing on the Fund shall be utilised during the succeeding year for awarding a prize in cash to a student of the A. V. Government High School, for Boys Thazhava, who has passed the S. S. L. C. Examination during the previous year in the first attempt securing the highest number of marks.

6. The prize shall be awarded on the occasion of the School Day Celebration or on any other occasion in the academic year as decided by the Administrator and thereafter the fact of such award with relevant particulars thereof shall be published in the notice board of the school for the information of the public.

7. If, in any year, two or more pupils secure the same number of highest marks, then the amount shall be divided equally among them and the prizes awarded accordingly.

8. Requisition for payment of annual interest shall be sent by the Administrator to the Treasurer of Charitable Endowments at any time not later than two months prior to the date fixed for the award of the prize and the Treasurer of Charitable Endowments shall, thereupon arrange to place the annual interest at the disposal of the Administrator.

9. If the interest is not utilised as provided in clause 5 or if the prize is not awarded owing to the non-availability of a suitable candidate or for any other reason, or any balance is left after awarding the prize, such amount shall be added on to the corpus of the fund by the Treasurer of Charitable Endowments, unless its payment is allowed by the Treasurer in exceptional cases on the specific recommendation of the controlling authority specified in clause 10.

10 If any doubt or dispute arises regarding the meaning or interpretation of the Scheme, It shall be referred to the Director of Public Instruction whose decision thereon shall be final.

SCHEDULE

Name of Endowment	*Details of Property*
(1)	(2)
"Sri M. Kochukrishna Pillai, Memorial Prize Endowment Fund".	Rs. 1,000 (Rupees One thousand only)

By order of the Governor,

A. RAMASWAMY PILLAI,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

The Staff of A. V. Government High School for Boys, Thazhava, Quilon, wishes to institute an endowment in the name of Sri M. Kochukrishna Pillai at the A. V. Government High School for Boys, Thazhava. Preliminary notification regarding this has been published in the Gazette dated 12-10-1982. Now Government have accepted the endowment for institution and hence this notification.

GOVERNMENT OF KERALA

Taxes (B) Department

NOTIFICATION

No. 83/82/TD. *Dated, Trivandrum, 8th December 1982.*

S. R. O. No. 44/83.—In exercise of the powers conferred by section 10 of the Kerala General Sales Tax Act, 1963 (15 of 1963), the Government of Kerala, having considered it necessary, in the public interest, so to do, hereby make an exemption in respect of the sales tax payable under the said Act by the Coastal Women's Industrial (Workshop) Co-operative Society Limited No. 12, Vaddy, Quilon for the period from 1st April 1976 to 31st March, 1980, subject to the condition that the tax, if any, collected by the Society during the above period, shall be paid over to Government.

By order of the Governor,
N. KRISHNAN NAIR,
Special Secretary to Government

Explanatory Note

(This is not a part of the Notification, but is intended to indicate the general purport).

Government consider that the Coastal Women's Industrial (Workshop) Co-operative Society Limited No. 12, Quilon should be given exemption from levy of Sales tax for the period from 1-4-1976 to 31-3-1980, subject to the condition that tax, if any, collected during the above period should be paid over to Government. This notification is intended to achieve the above object.

Kerala Gazette No. 3 dated 18th January 1982.
PART I Section iv



GOVERNMENT OF KERALA

Industries (Special) Department

NOTIFICATION

G. O. (P) No. 323/82/ID. *Dated, Trivandrum, 9th December* 1982.

S. R. O. No. 45/83.—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), the Government of Kerala hereby make the following rules in respect of Special Recruitment from among members of Scheduled Castes and Scheduled Tribes to the post of Senior Co-operative Inspector in the Industries Department, namely:—

RULES

1. *Short title and commencement.*—(a) These rules may be called the Special Recruitment from among members of Scheduled Castes and Scheduled Tribes to the post of Senior Co-operative Inspector in the Industries Department Special Rules, 1982.

(b) They shall come into force at once.

2. *Appointment.*—Appointment to the post shall be by Special Recruitment from among Scheduled Gastes and Scheduled Tribes candidates.

3. *Appointing Authority.*—The appointing authority shall be the Head of the Department.

4. *Educational Qualifications.*—The qualifications for appointment to the post shall be as follows :

B. Com. degree of a recognised University with Co-operation as Special Subject; or B.A./B.Sc./B. Gom. Degree of a recognised University; and

(i) Higher Diploma in Co-operation; or

(ii) Successful completion of subordinate personnel training course conducted by the Co-operative Department.

5. *Qualification regarding age.*—No person shall be eligible for appointment to the post if he has not completed 18 years of age and has completed 40 years of age on the 1st day of January of the year in which applications

for appointment are invited by the Kerala Public Service Commission. No relaxation in age limit as per the provisions of the Kerala State and Subordinate Services Rules 1958, shall be available.

6. *Training.*—A person appointed under these rules shall undergo training for a period of six months. During the period of training the candidate shall be paid the minimum of the scale of pay plus the allowances attached to the post. He shall be paid T. A. also as per rules.

7. *Probation.*—On regular appointment, after training, the person shall be on probation for a total period of two years on duty within a continuous period of three years.

8. *Tests.*—A person appointed to the post shall, during the period of probation, pass the Account Test (Lower), if he has not already passed the same.

By order of the Governor,
P. M. Abraham,
Commissioner & Special Secretary,
(Industries.)

Explanatory Note

(This does not form part of the notification, but it is intended only to indicate its general purport.)

In G. O. Rt. No. 1804/81/GAD. dated 6-3-1981 orders have been issued by Government reserving 3 posts of Senior Co-operative Inspectors in the Industries Department for appointment through Special recruitment from among Scheduled Castes/Scheduled Tribes candidates. The Special Rules for the Kerala Industries Subordinate Service do not provide any clause for direct/Special recruitment to the post of Senior Co-operative Inspector. The post reserved for Special recruitment are categorised on the basis of representation of Scheduled Castes/Scheduled Tribes in each category of posts. The Special Rules for any service do not provide for direct recruitment and lay down specific qualification etc. Direct recruitment of the Scheduled Castes/Scheduled Tribes to the reserved posts can be made after issuing (executive/statutory) orders fixing qualification and age limit etc., for such posts. Hence this notification.

GOVERNMENT OF KERALA

Health (D) Department

NOTIFICATION

No. 23657/D2/81/HD. *Dated, Trivandrum, 4th May* 1982.

S. R. O No.53 /83.—Under sub- paragraph (1) of paragraph 26 of the Drugs (Prices Control) Order. 1979, and in supersession of Notification-II No. 27426/D2/70-2/HD dated the 8th July. published in Part I of the Kerala Gazette No. 36 dated the 8th September, 1970, as subsequently amended the Government of Kerala hereby authorise the following Officers to exercise the powers conferred by clauses (a), (b) and (c) of the said sub-paragraph in the whole of the State of Kerala. namely:-

(1) Shri V. J Thomas, Drugs Controller
(2) ,, D. Kumaran Nair, Assistant Drugs Controller
(3) ,, T. T. Joseph, Assistant Drugs Controller
(4) ,, A. R. Saratchandra Menon, Chief Inspector of Drugs Intelligence Squad
(5) ,, R. Balakrishna Pillai Regional Drugs Inspector
(6) ,, V. S. Parasuraman, Regional Drugs Inspector
(7) ,, P. P. Kurian, Regional Drugs Inspector
(8) ,, V. T. Mammen, Drugs Inspector
(9) ,, S. S. Venkatakrishnan, Drugs Inspector (Special Intelligence Branch)
(10) ,, T. A. Jumbunathan, Drugs Inspector
(11) ,, T. P. Gopinathan, Drugs Inspector
(12) ,, P. K. Mohammed Kutty, Drugs Inspector
(13) ,, A. Abdul Shukoor. Drugs Inspector
(14) ,, N. S. Alexander, Drugs Inspector
(15) ,, Herman Joseph, Drugs Inspector
(16) ,, K. Sasikumar, Drugs Inspector
(17) ,, V. Muraleedharan, Drugs Inspector
(18) ,, N. Sugatha Rao, Drugs Inpector
(19) ,, M. Kanakaraju, Drugs Inspector
(20) ,, Rajan Ninan, Drugs Inspector
(21) ,, V. Surendran Pillai, Drugs Inspector
(22) ,, S. M. Thaha, Drugs Inspector
(23) ,, M. N. Padmanabhan Nair, Drugs Inspector
(24) ,, M. P. George, Drugs Inspector

By order of the Governor,

M. S. K. RAMASWAMY,
Special Secretary to Government.

G. 1062

[P.T.O.]

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Under paragraph 26 of Drugs (Prices Control) Order 1979, the Drugs Inspectors have to be authorised by the Government to enforce the provisions contained in Drugs (Prices Control) Order. This notification is intended to achieve this object.

77

GOVERNMENT OF KERALA

Home (E) Department

NOTIFICATION

C. O. Rt. No. 114/83/Home. *Dated, Trivandrum, 11th January* 1983.

S. R. O. No. 58/83.—Under clause (s) of section 2 of the Code of Criminal Procedure, 1973 Central Act 2 of 1974 and in modification of the previous notification to the extent it relates to the location of the Changanacherry Police Station and in modification of the notification published under C. O. (Rt) 2085/79/Home dated the 17th November, 1979, as S. R. O. No. 1300/79 in Part-I of the Kerala Gazette No. 47 dated the 27th November 1979 in so far as it relates to the area of jurisdiction of the Changanacherry Police Station the Government of Kerala hereby declare that the building No. 346-H and I situated in Survey numbers 318/22 and 317/6 of Vazhappally East villags in ward No. XXVIII of Changanacherry Muncipality in Changanacherry Taluk shall be a Police Station known as the "Changanacherry Police Station" with jurisdiction over the local areas specified under column (4) of the Schedule below:—

SCHEDULE

Name of Police Station	Taluk	Village	Local areas of jurisdiction/ Karas
(1)	(2)	(3)	(4)
Changanacherry	Changanacherry	Madappally	1. Kurumbanadom 2. Madappally
		Changanacherry	1. Puzhavathu 2 Perunna West 3. Poovam 4. Perunna East 5. Lakkikkadu

(1)	(2)	(3)	(4)
		Thrikkodithanam	1. Paippadu 2. Thrikkodithanam
		Vazhappally East	1. Vazhappally East 2. .Veroor
		Vazbappally West	1. Vazhappally West 2. Vettithuruthy 3. Paral 4. Thuruthy
		Kurichy	1. Ithithanam 2. Kurichy

This notification shall come into force on and with effect from 20th January 1983.

By order of the Governor,

P.V. Radhalaksmi,

Additional Secretary to Government.

Explanatory Note

(This is not a part of the notification, but is intended to indicate its purport).

The old and dilapidated building of the Changanacherry Police Station has to be demolished for the construction of a new building in that site. So the Police Station has to be shifted to another building temporarily. This notification is for that purpose.

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Government of Kerala
1983

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Tuesday, 18th January 1983 / 28th Pousha 1904 [No. 64

GOVERNMENT OF KERALA

Industries (K) Department

NOTIFICATION

No. 43112/K2/82/1D. *Dated, Trivandrum, 18th January, 1983.*

S. R. O. No. 57/83.—In exercise of the powers conferred by sub-section (1) of section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957), the Government of Kerala hereby make the following Rules further to amend the Kerala Minor Mineral Concession Rules, 1967, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Minor Mineral Concession (Amendment) Rules, 1983.

(2) They shall come into force at once.

2. *Amendment of the rules.*—In the Kerala Minor Mineral Concession Rules, 1967, in rule 48B,—

(i) in sub-rule (b),—

(a) in item (i), the word "and" occurring at the end shall be omitted;

33/221/MC.

(b) after item (ii), the following item shall be inserted, namely:—

"(iii) a consent letter from the owner/person in possession of the property in which the sales depot is situated, in case the property is not possessed by the applicant himself.";

(ii) in sub-rule (c), the following shall be added at the end, namely:—

"and a consent letter from the owner/person in possession of the property in which the sales depot is situated, in case the property is not possessed by the applicant bimself."

By order of the Governor,

P. M. SREEVASUDEVAN,

Additional Secretary to Government.

Explanatory Note

(This is not part of the Notification but is intended to bring out its general purport).

In the Kerala Minor Mineral Concession Rules, 1967 there is no provision by which Government can insist on the production of a consent letter of the land owner along with the application for dealers licence. This has often led to disputes between the dealer and the land owner in whose land the dealer does business. So it has become necessary to make provision in the Rules by which the applicant for dealer's licence shall have to produce a consent letter of the land owner. Hence this Notification.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.